

2484  
No. 10989

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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JACOB MORRIS DANZIGER, TRINIDAD INTERNATIONAL PETROLEUM, LTD., and  
WAKE DEVELOPMENT COMPANY,  
Appellants,

vs.

UNITED STATES OF AMERICA,  
Appellee.

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Transcript of Record  
In Four Volumes  
Volume I  
Pages 1 to 447

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Upon Appeal from the District Court of the United States  
for the Southern District of California,  
Central Division

FILED

FEB 26 1946

PAUL P. O'BRIEN,  
CLERK



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Circuit Court of Appeals

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## NAMES AND ADDRESSES OF ATTORNEYS:

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JAMES M. CARTER,  
Assistant U. S. Attorney,

V. P. LUCAS,  
Assistant U. S. Attorney,  
600 U. S. Post Office and Court House  
Bldg.,  
Los Angeles 12, Calif. [1\*]



In the District Court of the United States in and  
for the Southern District of California, Central Division

No. 15,173

Viol.: Secs: 17(a)(1) and 5(a)(2), Securities Act of 1933. (15 U.S.C. Section 77q(a)(1), e(a)(1)) Section 37 of the Criminal Code (18 U.S.C. 88). Section 215 of the Criminal Code (18 U.S.C. 338). (Securities Act, Mail Fraud and Conspiracy).

### INDICTMENT

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred forty-one;

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California and inquiring for the Southern District of California, upon their oaths present:

That Jacob Morris Dänziger (also known as J. M. Dänziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad Inter-



national Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, long prior to the uses of the mails hereafter set out and continuing to and including the date of the presentation of this indictment, did devise and intend to devise a scheme and artifice to cheat and defraud Michael A. Burns, J. Arthur Hazelton, Florence S. Lawyer, Harold J. McCoy, Elizabeth T. Parsons, Harry F. Pitts, Frederick A. Russell, Adeline B. Skinner, E. Barrie Smith, F. A. Stedcke, Ella May Tether, Raymond F. Walpert and other persons whose names, because of their number and want of knowledge on the part of the Grand [2] Jurors, are not here stated but comprising a class of persons who were stockholders in Great Eastern Natural Gas Company, Golden Quebec Mines, Ltd., South McKenzie Island Mines, Ltd., or other companies whose stock at the times hereafter mentioned had become valueless, which persons, hereafter called the persons to be defrauded, the defendants would induce and attempt to induce to pay money or property to the defendants as a result of fraudulent pretenses, promises, representations and devices which the defendants would make and use and cause to be made and used respecting Trinidad International Petroleum, Ltd., a Nevada corporation (hereafter called T. I. P.), its securities, operations, personnel and matters relating thereto as hereafter set out, which money

and property so obtained from the persons to be defrauded the defendants would convert to their own use and would not return to the persons to be (and who were) defrauded.

It was a part of the scheme that the defendants other than Jacob Morris Danziger, hereafter generally called Danziger, would call upon the persons to be defrauded, which persons lived mostly in States in the Eastern part of the United States, and would represent that the stock and so-called Profit-Sharing notes of T.I.P., a Nevada corporation, which corporation they represented (among other things) was engaged in the oil business on the Island of Trinidad, British West Indies, and elsewhere, and whose securities they represented (among other things) were listed and traded on the Stock Exchange at London, England, at prices of par or higher (the par of the T.I.P. stock was \$5 per share, and the par of each note was one English pound), could be obtained by the persons to be defrauded at much lower prices by sending money and property directly, or through the defendants, to Wake Development Company, a Delaware corporation, or the offices of T.I.P., both at Los Angeles, California.

It was further a part of the scheme that the defendant Danziger, who was president, and controlled and directed the activities, of both T.I.P. and Wake Development Company, should receive or cause [3] such corporations to receive the money and property sent in by the persons to be de-

frauded, and should cause a portion of such funds to be distributed to the other defendants and should cause stock and so-called Preferential Profit-Sharing Notes of T.I.P. to be issued to persons to be defrauded.

It was further a part of said scheme that the defendants other than Danziger, when calling upon the persons to be defrauded, would use fictitious names or aliases and would give fictitious addresses for themselves to the persons intended to be defrauded, so that it would be difficult if not impossible for the persons to be defrauded to later find the defendants who had called on them. It was further a part of the scheme that the defendant Danziger, when the persons to be defrauded should thereafter communicate with him or Wake Development Company or T.I.P. with reference to the persons who had called on them and representations which had induced them to part with their money, would pretend and cause such corporations to pretend not to know the name or address of the persons who had called on the persons to be defrauded and would claim that the representations made were without their knowledge or consent and that they were innocent in the matter. It was further a part of the scheme that the defendants would refuse to return any of the money or property paid by the persons to be defrauded, and that the defendants would thereafter retain the same.

It was further a part of the scheme that the de-

fendant Danziger, in transmitting funds to the other defendants, would use fictitious names and aliases and names other than his own in sending such funds and would transmit said funds to the other defendants under names which were different from the names used by the other defendants when they called on the persons to be defrauded. It was further a part of said scheme that defendant Danziger, in replying and in causing Wake Development Company and T.I.P. to reply to inquiries and letters received from the persons to be defrauded, would often secretly submit [4] such letters to the defendants who had called on them for the advice of such other defendants respecting the reply to be made. It was further a part of such scheme that the persons calling on the persons to be defrauded would frequently suggest or dictate to the persons to be defrauded the contents of the letters which the persons to be defrauded would write to Danziger, Wake Development Company or T.I.P., so that the letters so written would not refer to the name of the persons who called on them or the representations which had been made them.

It was further a part of the scheme that defendant Danziger should cause the Wake Development Company and T. I. P. frequently to appear to be reluctant to take the money and property of the persons to be defrauded and to issue stock or so-called Profit-Sharing notes in return therefor.

It was further a part of said scheme that defendants would use the United States mails, interstate and local telephone and telegraph facilities, oral and written communications, papers and pamphlets in their dealings with the persons to be defrauded and with each other.

It was further a part of the scheme that the defendants would represent and cause to be represented to the persons to be defrauded that:

(1) T.I.P. owned valuable oil properties on the island of Trinidad, British West Indies, and also in the State of New Mexico, was producing oil from its properties in Trinidad, had commercial oil wells thereon, was in a prosperous condition, and its securities would greatly rise in value. (The fact was, as the defendants then and there knew, but did not disclose to the persons to be defrauded, that defendant T.I.P. owned no properties in New Mexico; its sole asset consisted of a contract, obtained indirectly from its promoters, to acquire [5] certain rights to drill for and produce oil on certain lands on the island of Trinidad, the oil-producing possibilities of said lands being unknown; no commercial production of oil had ever been obtained from these properties; T.I.P. had not even been qualified to do business in Trinidad; although this contract to acquire such purported oil rights had been executed in 1933, neither T.I.P., nor anyone else, had ever paid any money thereunder nor had it, or anyone else, ever commenced any drilling operations thereunder and this contract was



probably subject to forfeiture for non-compliance therewith by T.I.P.; T.I.P. had never had any bank account or working capital, had no oil drilling equipment or other tools or equipment, kept no regular books of accounts, and had no assets except the contract referred to above; although T.I.P. had issued and outstanding \$5,000,000 par value worth of stock and 100,000 pounds face amount of so-called Preferential Profit-Sharing Notes, all of such securities had been issued in consideration of promotion services and this contract and none of the proceeds of the sale to the public of any of its securities had inured to the benefit of T.I.P.; none of the officers or directors of T.I.P. had ever visited the properties in the island of Trinidad covered by its contract to acquire oil rights; the person who was stated to be in charge of production for T.I.P. had never visited said properties and had not seen any detailed engineering or other reports thereon.) [6]

(2) That the persons to be defrauded who were shareholders of Great Eastern Natural Gas Company, Golden Quebec or South McKenzie Island Mines or other companies whose stock had become valueless, had acquired, as the result of action taken by such companies, a valuable "right" to obtain stock and so-called Profit-Sharing Notes of T.I.P., proportionate to the amount of stock held by them in such other companies, which "right" could be exercised by communicating with Wake Development Company or T.I.P. at Los Angeles and assigning this stock in such other com-

panies and paying money to Wake Development Company or T.I.P. on the exercise of such right. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that such "right" was of no value whatever and was merely a device whereby the defendants induced the persons to be defrauded to pay money or property to them, the defendants being generally willing to sell the stock and notes of T.I.P. to anyone who would pay them money and property therefor.)

(3) That the stock and so-called Profit-Sharing Notes of T.I.P. were listed and traded on the stock exchange at London, England, at a price much higher than the price at which the persons to be defrauded could get such stock and notes from Wake Development Company or T.I.P. at Los Angeles upon exercise of these rights; that the persons who called upon the persons to be defrauded would repurchase from the persons to be defrauded such securities of T.I.P. at prices much higher than [7] the cost to the persons to be defrauded; that it was necessary that the persons to be defrauded act quickly; that such repurchases at a big profit to the persons to be defrauded, would be made just as soon as the persons defrauded had obtained the stock and notes of T.I.P. from Los Angeles; that, in some cases, the defendants calling on the persons to be defrauded would represent that in the exercise of such "rights" to acquire securities of T.I.P. they would be partners with or agents for the persons to be defrauded and would pay,

with their own money, part of the original purchase price of such securities to Wake Development Company so that the persons to be defrauded would need pay, so they represented, but a part of the original cost of such securities, and defendant Dänziger would cause letters and wires to be sent the persons to be defrauded by Wake Development Company which would cause the persons to be defrauded to believe that such payments had been made. (The fact was, as the defendants then and there knew, but did not disclose to the persons to be defrauded, that the stock or notes of T.I.P. were not listed on the stock exchange in London, England, or anywhere else; that the promises made by the persons who called on the persons to be defrauded to repurchase from such persons the stock or notes of T.I.P. were made without the intention of performing same and were not performed, and the persons intended to be defrauded, due to the precautions taken by the defendants, as set out above, could not later even locate the persons who had called on them; that persons who called on them [8] had not in fact made payments to Wake Development Company as part of the purchase price to be supplied by the persons to be defrauded.)

(4) That the defendants would show or cause to be shown to the persons to be defrauded, clippings of newspapers purporting to show prices of securities on the stock exchange in London, England, which newspapers showed prices for securities of an oil company which had the word "Trini-



dad" in its name; that the defendants would represent and cause to be represented to the persons to be defrauded that the company whose name so appeared in the papers was T.I.P., the company whose securities the defendants were selling. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that the stock of T.I.P. was not listed or traded on the Stock Exchange in London, England, or elsewhere.)

(5) That persons variously described as Canadian interests, English interests or other people were attempting to acquire stock or notes of T.I.P., and that if the persons to be defrauded should buy T.I.P. stock or notes, they could easily sell their stock and notes to such other people at a profit. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that there were no other groups or persons who were attempting to acquire T. I. P. stock or notes. Such representation was without foundation.)

(6) That most of the stockholders in Golden Quebec Mines had exchanged their holdings for securities of T.I.P. (The fact was, as the defendants and each of them knew, but did not disclose to the persons [9] to be defrauded, that only a few of such stockholders had made the exchange.)

(7) That T.I.P. needed money to settle a law suit brought against it by one Edwards; that as soon as this law suit could be settled, its stock

could be sold at a very high price. (The fact was, as the defendants then and there knew, that no law suit had been brought against T.I.P. by Edwards or anyone else. Such statement was without foundation.)

(8) That there was a good market for the securities of T.I.P. at a price higher than what it was being offered the persons to be defrauded. (The fact was, as the defendants then and there knew, that there was no market for such shares except such market as the defendants made in selling securities pursuant to this scheme here set out.)

(9) That T.I.P. was a reputable company and its securities had great possibilities of appreciation. (The fact was, as the defendants then and there knew, that the securities of T.I.P. had been sold for several years by means of the methods above set out, and defendant Danziger had secretly transmitted part of the proceeds from such sales to the persons who called on the persons to be defrauded and none of the proceeds of such sales had ever found their way into the treasury of the company. T.I.P. at all times has been without funds and was in the condition previously set out.)

Each and every one of such representations was false and fraudulent and known by the defendants at the time they were made to be false and fraudulent, and each and every one of such representations [10] was made and caused to be made with the intent on the part of the defendants of

deceiving the persons to be defrauded and causing such persons to pay their money and property in reliance thereon, to the defendants, which money and property the defendants would, and did, convert to their own use and would not return to the persons to be defrauded.

And your Grand Jurors aforesaid, upon their oaths aforesaid, do further present that the said defendants, on or about May 15, 1940, in the City of Los Angeles, California, within the jurisdiction of this Court, so having devised the said scheme and artifice to defraud, did unlawfully, wilfully and feloniously, in the sale to Mrs. Elizabeth T. Parsons of Pottsville, Pennsylvania, of securities, to-wit: 600 shares of stock of T.I.P. and 600 units of so-called Preferential Profit-Sharing Notes of said corporation, by use of the United States mails, employ said scheme and artifice to defraud, and said use of the United States mails was in the manner following, to-wit:

Said defendants, on or about May 15, 1940, did place and cause to be placed in the Post Office establishment of the United States at Los Angeles, California, to be carried by the United States mails to Mrs. Elizabeth Parsons at Pottsville, Pennsylvania, a certain letter together with stock certificate #C-217 and note certificate #C-133 for stock and notes of Trinidad International Petroleum, Ltd., together with other enclosures in a post-paid envelope, which letter and envelope were in words and figures substantially as follows, to-wit: [11]

Wake Development Company  
Investments

Continental Building  
408 South Spring Street, Los Angeles, Cal.  
Telephone Mutual 5698; Cable: Andanz  
Bentley Code

May 15, 1940

[In longhand]: E.J.P.

Mrs. Elizabeth Parsons,  
801 Mahantongo Road,  
Pottsville, Pa.

Dear Mrs. Parsons:

Enclosed herewith you will find certificates of Trinidad International Petroleum, Ltd., in your name as follows:

Stock Certificate #C217 for 600 shares

Note Certificate C133 for 600 units

Kindly sign the receipt enclosed and return in the selfaddressed envelope herewith.

Since these certificates are being delivered to you in advance of final payment of the total amount due and since the balance amounts to \$940.00 we have prepared a note for this amount and dated it for settlement on June 15, 1940. If you will kindly sign this note and return it with the stub receipt for the stock and notes, our records will then be complete and we can credit your account on our books with the amount of this note which will then make your account completely paid in full.

Thanking you for your prompt attention, we are

Very truly yours,

WAKE DEVELOPMENT

COMPANY

J. M. DANZIGER,

By [Illegible]

Air Mail Registered

Return Receipt Requested

(Envelope)

Suite 1400

408 South Spring Street

Los Angeles

Via Air Mail

Air Mail Registered Return Receipt Requested

[Cancelled Postage Stamp]

Mrs. Elizabeth Parsons,

801 Mahantongo Road

Pottsville, Pa.

[Stamped]: Registered No. 225637

[Postoffice Stamps]: Los Angeles, California,  
(Sta. No. 4) May 15, 1940, Registered. Pottsville,  
Pa., May 17, 1940, Registered.

contrary to the form of the statute in such case  
made and provided and against the peace and dig-  
nity of the United States of America (Section  
17(a) (1), Securities Act of 1933; 15 U.S.C. 77q  
(a)(1).) [12]



## COUNT TWO

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about May 8, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Mrs. Florence S. Lawyer of securities, to wit: one hundred and eleven and  $\frac{3}{7}$  shares of stock of Trinidad International Petroleum Ltd., a corporation, and one hundred and eleven and  $\frac{3}{7}$  units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following to-wit:

The defendants on or about May 8, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to Florence S. Lawyer, 30 Odell Avenue, Yonkers, New York, which letter and envelope were in words and figures substantially as follows, to-wit: [13]

[Wakefield Development Company Letterhead]

May 8th, 1939

Mrs. Florence S. Lawyer  
30 Odell Avenue  
Yonkers, New York.

Dear Madam:

We acknowledge receipt of your letter of May 3rd with enclosures of Certificate #0333 for 200 shares and Certificate #0689 for 400 shares of Golden Quebec Mines stock, and your check in the amount of \$390.00.

Certificate for 111-3/7th shares of Trinidad International Petroleum, Ltd., stock and 111-3/7ths units of Preferential Profit Sharing Notes will be forwarded to you, via registered mail, within a few days.

Thanking you, we are

Very truly yours,  
A. FAULKNER

F.S.L.

(Envelope)

[Cancelled Postage Stamp]: Los Angeles, Calif.  
May 8, 4 PM, 1939, Arcade Annex.

Mrs. Florence S. Lawyer  
30 Odell Avenue  
Yonkers, New York

F.S.L.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section

17(a) (1) Securities Act of 1933, Section 77q(a)  
(1) Title 15 U.S.C.) [14]

### COUNT THREE

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:

That the defendants on or about January 19, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Harry F. Pitts of securities, to-wit: Sixty-eight and 5/7ths shares of stock of Trinidad International Petroleum, Ltd., a corporation, sixty-eight and 5/7ths units of so-called Preferential Profit Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to-wit:

The defendants on or about January 19, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to Harry F. Pitts, 290 Wall Street, Kingston, New York, which letter and envelope



were in words and figures substantially as follows,  
to-wit: [15]

[Wake Development Company Letterhead]

January 19th, 1939

Mr. Harry F. Pitts,  
290 Wall Street,  
Kingston, New York.

Dear Sir:

Your recent letter is at hand and we have given consideration to your request to exchange your 370 shares of Golden Quebec Mines stock for stock and notes of Trinidad International Petroleum, Ltd.

The basis of exchange which we offered to exchange Golden Quebec Mines stock for Trinidad International Petroleum, Ltd., stock and notes was a credit allowance of .65c for Golden Quebec Mines stock, providing a cash payment of .65c per share was made, and the total cash and credit was then to apply on a price of \$7.00 per unit for Trinidad International Petroleum, Ltd., each unit consisting of one share of stock and one Preferential Profit Sharing Note.

Our decision is to grant your request for this exchange on the above terms, providing that it is made at once as we, under no circumstances, will grant an option on this basis to be executed at a later date.

If it is your intention to apply for the exchange, you will kindly endorse your 370 shares of Golden Quebec Mines stock and mail same to us with your check, money order or bank draft drawn to order

of Wake Development Company, in the amount of \$240.50 and we will then have transferred to your name 68-37th shares of Trinidad International Petroleum, Ltd., stock and 68-3/7th units of Preferential Profit Sharing Notes of like concern, and will deliver same to you in due course.

It is definitely understood that this offer is made subject to immediate consummation and that it positively will not be renewed at a later date.

Very truly yours,  
A. FAULKNER,  
Secretary

[In longhand]: Jan. 23, '39—By reg. mail 320 G. Q. shares endorsed N. Y. Draft Not Ulster Co Bank 240.50.

(Envelope)

[Cancelled Postage Stamp]: Los Angeles, Calif., Jan. 19, 5:30 p.m., 1939, Arcade Annex.

[In longhand]: Geo. W. Williams, Temple Hotel

Mr. Harry F. Pitts,  
290 Wall Street  
Kingston, New York.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [16]

## COUNT FOUR

And the grand jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about January 5, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to F. A. Russell of securities, to wit: one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called preferential profit sharing notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about January 5, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to F. A. Russell, 119 Merriam Avenue, Leominster, Massachusetts, which letter and envelope were in words and figures substantially as follows, to wit: [17]

## [Wake Development Company Letterhead]

January 5th, 1939

[In longhand]: (Illegible) Wood, Cedar Pines  
Park, Cedar Pines, Cal.

January 5th, 1939

Mr. F. A. Russell,  
119 Merriam Avenue  
Leominster, Massachusetts.

Dear Sir:

On December 5th, 1938, we wrote you asking you to kindly give us some explanation of your recent request to exchange 10,000 shares of South McKenzie Island Mines, Ltd., stock against which you sent us a deposit of \$350.00 as a 10% down payment, and your subsequent telegram asking that we cancel your previous instructions.

Since we have not received a response to our letter, we assume you no longer desire to exchange all your South McKenzie Island stock, and since your deposit of \$350.00 will cover the exchange of 1,000 shares of South McKenzie Island stock for 100 shares of Trinidad International Petroleum, Ltd., stock and Notes, we are enclosing herewith 100 shares of Trinidad International Petroleum, Ltd., stock and 100 units of Preferential Profit Sharing Notes.

Our records show you did not send us the 1,000 shares of South McKenzie Island Mines stock and we would therefore thank you to us us this stock, properly endorsed, at your earliest convenience.

Also kindly sign and return the enclosed receipt for the Trinidad International Petroleum, Ltd., stock and Preferential Profit Sharing Notes.

Very truly yours,  
A. FAULKNER  
Secretary

[In longhand]: JMD 5/27/41 FAR

Encls. Stock and Notes.

Registered Air Mail.

(Envelope)

[Cancelled Postage Stamps]

Registered Air Mail Return Receipt Requested

Mr. F. A. Russell  
119 Merriam Avenue  
Leominster, Massachusetts

[Stamped]: Registered No. 380167 Via Ail Mail

[Stamped]: Los Angeles, Calif., Jan. 5, 1939,  
Registered. Leominster, Mass., Jan. 7, 1939, Re-  
gistered.





INCORPORATED UNDER THE LAWS OF

No B - 198

NEW YORK

Shares

\*\*\*100\*\*

# TRINIDAD INTERNATIONAL PETROLEUM, Limited

CAPITAL STOCK 1,000,000 SHARES  
(FULLY PAID AND NON-ASSESSABLE)

THIS CERTIFIES THAT

\*\*\*\*\* ONE HUNDRED \*\*\*\*\*

F. W. RUSSELL

TRINIDAD INTERNATIONAL PETROLEUM, Limited

has the honor to acknowledge the receipt of the sum of \$100.00 (One Hundred Dollars) from the Treasurer of the Trinidad International Petroleum, Limited, and to certify that the same has been duly received and is now on hand for the use of the Corporation.

In Witness Whereof

5th Street, New York, N.Y.

JANUARY 1919

SHARES

\$5.00

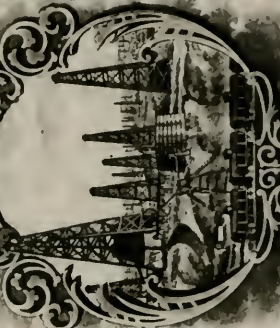
EACH





CERTIFICATE  
FOR

\*\*\*\* 100 \*\*\*\*  
SHARES



CAPITAL STOCK  
OF THE

TRINIDAD  
INTERNATIONAL  
PETROLEUM,  
Limited

ISSUED TO

R. A. RUSSELL

DATED

January 5, 1939

For Value Received, hereby sell, assign and transfer  
unto

Shares  
of the Capital Stock represented by the within  
Certificate, and do hereby irrevocably constitute and appoint  
to transfer the said Stock on the books of the within named  
Corporation with full power of substitution in the premises.  
Dated 19  
In presence of

NOTICE: THE SIGNATURE OF THE ASSAULTOR  
MUST CORRESPOND TO THE NAME ON THE FACE OF THE CERTIFICATE. IN EVERY PARTICULAR WITHOUT  
ALTERATION OF THE NAME OR OF ANY OTHER MATTER



UNITED STATES OF AMERICA

SERIAL NUMBER

C 114

NUMBER OF UNITS

\*\*\*\*\*100\*\*\*\*\*

Nominal Value  
One Pound Sterling  
Per Unit

# Preferential Profit-Sharing Note OF Trinidad International Petroleum, Ltd.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA, U. S. A.  
(REGISTERED IN GREAT BRITAIN)

This is to Certify that **F. A. RUSSELL**

is the registered holder of this Preferential Profit-Sharing Note, representing.....

\*\*\*\*\*

\*\*\*\*\* ONE HUNDRED \*\*\*\*\* units of a total issue of One Million identical units of the nominal value of One Pound (£1.) each. Each unit shall entitle the registered holder thereof to participate proportionately in Twenty Per Centum (20%) of the profits (computed as hereinafter provided) of **TRINIDAD INTERNATIONAL PETROLEUM, LIMITED** (hereinafter called the Company) derived from the production, refining and sale of petroleum and/or petroleum products recovered from those certain lands in the Island of Trinidad, British West Indies, acquired by the Company at its organization, a complete description of which is on file in the office of the Company in London, England.

Distribution of the said net profits shall be made to the holders of record of Preferential Profit-Sharing Notes on the last day of June and the last day of December of each year for their proportionate participation in the said net profits derived by the Company from its said operations on the said lands during the preceding calendar half-year, payable in London, England, in Pounds Sterling, ninety days after the last day of each such semi-annual period.

The amount of each such distribution shall be determined by a recognized firm of Chartered Accountants by the methods customarily in use in the American oil industry, making proper allowance for general and administrative expenses, abandonments, interest and taxes, super taxes, and assessments of every nature levied by domestic or foreign governments. If the Company shall engage in operations other than the said operations on the said lands, then the general and administrative expenses shall be divided between the various operations in proportion to the respective operating profits thereof. PROVIDED that if the Company shall sustain a loss from its said operation on the said lands during any such semi-annual period after June 30, 1934, the Company may withhold from payments due to note holders from net profits made during subsequent periods, an amount equal to Twenty Per Centum (20%) of the said losses, and shall not then or thereafter be required to pay to the note holders any part of the amount so withheld.

The Company may at any time, at its option, redeem all or any part of the said notes selected pro rata or by lot, by paying the registered holder thereof One Pound plus Ten Per Centum (10%) per unit thereof, together with the amount of any distribution of profits then due and unpaid.

So long as any Preferential Profit-Sharing Notes are outstanding there shall be no mortgage lien placed on the said lands which shall have preference over the income rights of the holders of the said notes, except with the written consent of the holders of at least Fifty Per Centum (50%) of the units represented by the said notes then outstanding.

In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, the holders of the Preferential Profit-Sharing Notes shall not be entitled to any distribution of assets, nor shall they have any vested right in the properties of the Company, or vote in connection with same.

All or any of the units represented hereby may be individually negotiable, sold or transferred by the holders thereof, except to bearer, separately and apart from any certificate representing shares of the Company and may be transferred by the registered holder in person or by his duly authorized attorney upon surrender of said units properly endorsed at the office of the Company's Transfer Agent, in London, England.

In Witness Whereof, **TRINIDAD INTERNATIONAL PETROLEUM, LIMITED**, has caused this Preferential Profit-Sharing Note to be executed in its behalf and in its corporate name, and its corporate

seal to be affixed hereto by its officers properly authorized on the 5th day of January 1934.

*F. A. Russell*  
SECRETARY OF THE BOARD



PRESIDENT







NUMBER  
C 114

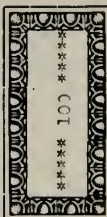
**United States of America**

**Trinidad International  
Petroleum, Limited**

*Incorporated under the Laws of the State of Nevada,  
United States of America*

(REGISTERED IN GREAT BRITAIN)

NUMBER OF UNITS



**Preferential  
Profit-Sharing Note**

**Nominal Value  
One Pound Sterling  
Per Unit**

## ASSIGNMENT

**For Value Received**.....hereby sell, assign, and transfer unto  
.....all the rights  
represented by the within Note, and do hereby irrevocably constitute and appoint  
.....my Attorney  
to transfer the said Note on the books of the within-named Company with full power of  
substitution in the premises.

**Dated**.....19.....

**In presence of:**

NOTICE. The signature to this assignment must correspond with the name as written upon the face of the Note, in every particular, without alteration or enlargement, or any change whatever.



RECEIPT

Certificate No. B-198—For 100 Shares, issued to F. A. Russell, 119 Merriam Avenue, Leominster, Mass. Dated January 5, 1939.

Certificate No. C-114—For 100 Units Preferential Profit Sharing Notes, issued to F. A. Russell, 119 Merriam Avenue, Leominster, Mass. Dated January 5, 1939.

Received Certificate No. B-198, Certificate No. C-114 this.....day of....., 1939.

.....

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [18]

COUNT FIVE

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about September 13, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to

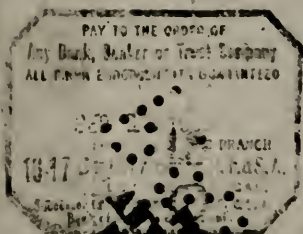


Adeline B. Skinner of securities, to wit: one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about September 13, 1939 did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Bank of the Manhattan Company, New York, New York, which check was in words and figures substantially as follows, to wit:

*Alce B Skinner*  
*Adeline B Skinner*

PAY TO THE ORDER OF  
 Adeline B Skinner  
 W. B. Skinner & Co.  
 310-048



PAY TO THE ORDER OF  
 THE BANK OF TRUST CO.  
 SEP 15 1939  
 FEDERAL RESERVE BANK  
 OF NEW YORK  
 ORDER OF THE  
 FEDERAL RESERVE BANK  
 SEP 15 1939  
 40 WALL STREET  
 NEW YORK, N. Y.

# CASHIER'S CHECK

FARMINGDALE, N. J.

SEP 12 1939

193

No. A-5595

**THE FIRST NATIONAL BANK**

ST-481

FARMINGDALE, N. J.

ST-481

PAY TO THE ORDER OF

Adeline B. Skinner

of THE FIRST NATIONAL BANK

500.00

373-1113

DOLLARS

CASHIER



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [20]

### COUNT SIX

And the Grand Jurors aforesaid, upon their oaths aforesaid to further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about January 28, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to E. Barrie Smith of securities, to wit: fifty-five and 5/7 shares of stock of Trinidad International Petroleum, Ltd., a corporation, and fifty-five and 5/7 units of so-called preferential profit-sharing notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about January 28, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of

the United States, according to the directions thereon, a check enclosed in a postpaid envelope, addressed to the First National Bank of Boston, Boston, Massachusetts, which check was in words and figures substantially as follows, to wit: [21]









contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [22]

### COUNT SEVEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:

That the defendants on or about May 22, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Harry L. and Ella May Tether of securities, to-wit: five hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and five hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to-wit:

The defendants on or about May 22, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent

and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Federal Trust Co., Newark, New Jersey, which check was in words and figures substantially as follows, to-wit: [23]

No 89

TRUST CO.  
19745

CEDAR BROOK, N.J. May 20 1939

55-683

THE FIRST NATIONAL BANK  
OF CEDAR GROVE

PAY TO THE ORDER OF

Wake Development Co \$1500<sup>00</sup>  
Fifteen Hundred, 00/100 DOLLARS

H. L. Yettin

REGISTERED MAIL

Pay FEDERAL RESERVE BANK  
New York, N. Y. or Order  
ALL PRIOR ENDORSEMENTS GUARANTEED  
MAY 26 1939  
FEDERAL TRUST CO.  
NEWARK, N. J.  
D. G. CONNOLLY, Treasurer

PAY TO THE ORDER OF  
FEDERAL TRUST CO.  
NEW YORK  
ALL PRIOR ENDORSEMENTS GUARANTEED  
MAY 27 1939  
D. G. CONNOLLY, Treasurer

NO 2 Spring St. Branch  
City of Atlantic  
May 27 1939  
101017

310-648

WAKE DEVELOPMENT CO.  
PAY TO THE ORDER OF



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [24]

## COUNT EIGHT

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about January 26, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and deliv-

ery after sale to Michael A. Burns, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Michael A. Burns and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about January 26, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Michatel A. Burns, 943 Peekskill, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [25]

[Wake Development Company Letterhead]

January 25th, 1939

Mr. Michael Burns,  
943 Second Street,  
Peekskill, New York.

Dear Sir:

In compliance with our letter of January 6th, 1939, we enclose herewith Certificate B-201 for 100 shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-117 for 100 units of Preferential Profit Sharing Notes of like concern.

Will you kindly sign the attached receipt and



return at your early convenience so that our records may be complete.

Thanking you, we are,

Very truly yours,

A. FAULKNER,

Secretary

Encs. Certificates

Registered air mail.

(Envelope)

[Cancelled Postage Stamp]

Registered Air Mail Return Receipt Requested

Mr. Michael Burns

943 Second Street

Peekskill, New York.

[Stamped]: 220616 Registered.

[Stamped]: Los Angeles, Calif. (Sta. H) Jan. 26, 1939, Registered. Peekskill, N. Y., Jan. 27, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 100 shares of \$5.00 each and Preferential Profit-Sharing Note for 100 Units issued January 25, 1939, to Michael Burns are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a) (2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a)(2). [26]

## COUNT NINE

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack, Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connelly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about May 18, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred and eleven  $\frac{3}{7}$  shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred and eleven  $\frac{3}{7}$  units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Florence S. Lawyer, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Florence S. Lawyer and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about May 18, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Florence S. Lawyer, 30 Odell Avenue, Yonkers, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [27]

[Wake Development Company Letterhead]

May 18th, 1939

Mrs. Florence S. Lawyer,  
30 Odell Avenue  
Yonkers, New York.

Dear Madam:

In accordance with our letter of May 8th, we enclose herewith Certificate C-209 for 111-3/7th shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-125 for 111-3/7th units of Preferential Profit Sharing Notes.

At your convenience will you kindly sign the attached receipt and return in enclosed self-addressed, stamped envelope in order that our records may be complete.

Thanking you, we are

Very truly yours,

A. FAULKNER

Secretary

Registered Air Mail

Encls.

F.S.L.

(Envelope)

[Cancelled Postage Stamp]

Registered Airmail Return Receipt Requested

Mrs. Florence S. Lawyer  
30 Odell Avenue  
Yonkers, New York

[Stamped]: Registered 219307 F.S.L.

[Stamped]: Los Angeles, Calif., (Sta. H), May 18, 1939, Registered. Yonkers, N. Y. May 19, 1939, Registered. Yonkers, N. Y., May 20, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 111-3/7 shares of \$5.00 each and Preferential Profit-Sharing Note of 111-3/7 units issued May 18, 1939, to Florence S. Lawyer are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a)(2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a)(2). [28])

## COUNT TEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C.

Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about February 20, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of sixty-eight and  $5/7$  shares of stock of Trinidad International Petroleum, Ltd., a corporation, and sixty-eight and  $5/7$  units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Harry F. Pitts, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Harry F. Pitts and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about February 20, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Harry F. Pitts, 290 Wall



Street, Kingston, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [29]

[Wake Development Company Letterhead]

February 20th, 1939

Mr. Harry F. Pitts,  
290 Wall Street  
Kingston, New York.

Dear Sir:

In compliance with our letter of January 25th, 1939, we enclose Certificate C-207 for 68-5/7ths shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-123 for 68-5/7th units of Preferential Profit Sharing Notes.

We note in our previous correspondence we made an error and referred to 68-3/7th Units of stock and notes which you would receive, but you will find that the certificates have been made out in the corrected amount of 68-5/7th shares.

Will you kindly sign the enclosed receipt and return same at your early convenience so that our records may be complete.

Thanking you, we are

Very truly yours,  
A. FAULKNER,  
Secretary

Encls.

Registered Air Mail.

HFP



(Envelope)

[Cancelled Postage Stamps]

Registered Air Mail Return Receipt Requested

Mr. Harry F. Pitts

290 Wall Street

Kingston, New York

[Stamped]: Registered No. 225622. H.F.P.

[Stamped]: Los Angeles, Calif., Sta. No. 4, Feb. 20, 1939. Registered. Kingston, N. Y., Feb. 23, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 68-5/7th shares of \$5.00 each and Preferential Profit-Sharing Note for 68-5/7th units issued February 20, 1939, to Harry F. Pitts are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a)(2) Securities Act of 1933, 15 U.S.C. Sec. 77e (a)(2). [30]

#### COUNT ELEVEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William

Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about October 4, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Adeline B. Skinner, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Adeline B. Skinner and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about October 4, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Adeline B. Skinner, 65 Main Street, Farmingdale, New Jersey, together with a letter of

transmittal enclosing said securities, a copy of which letter of transmittal was in words and figures substantially as follows, to-wit: [31]

October 4, 1939

Miss Adeline B. Skinner  
6 West Main Street  
Farmingdale, New Jersey

Dear Miss Skinner:

Confirming our letter of September 13 we enclose herewith Certificate C-214 for 100 shares of Trinidad International Petroleum, Ltd., stock and Certificate C-130 for 100 units of its Preferential Profit-Sharing notes.

At your convenience will you kindly sign the attached receipt and return in enclosed self-addressed envelope in order that our records may be complete.

We noted the absence of your endorsement on the Cashier's Check which you sent and we endorsed the same for you for deposit and the same cleared without difficulty.

Thanking you, we are,

Very truly yours,

J. M. D.

Pres.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section

5(a) (2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a) (2).) [32]

## COUNT TWELVE

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about March 14, 1940, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to J. Arthur Hazelton, Mantua, New Jersey, which letter and envelope were in words and figures substantially as follows, to wit:

March 14, 1940

Dear Doctor Hazelton:

I have gotten a good clear picture of the situation from this end and I will return to New York before I leave for the properties. I have found I

can make as good time that way as any other and no more expense.

I received the \$300 okay and it sure comes in handy when you have so much traveling expense. As I told you before I figured right down to the rock bottom when I said I would only ask you for \$400 out of the \$625 difference due me. Of course I can appreciate I didn't give you much time but I didn't want to wait around once I had my plans made. Now I will just about be able to squeeze thru on my original budget and I will have to ask you to dig in for the other \$100. I don't like to put it this way but better come out straight than dodge around, we have too much at stake to mince words about a \$100.00. If I didn't need it I sure wouldn't ask you, but it's for our mutual benefit so I think you would want me to state facts. I will leave here about Sunday latest and be in New York Tuesday latest. I would like to leave as soon after I get there as possible, and I would like to have enough to be sure I got back. Now if you write me as follows I'll get your letter when I get in and I would like you to send me the other \$100.00. A check will be okay. I'll call you when I get in after seven o'clock, but I won't have time to spend to come down to Mantua. This trip will take a couple weeks and it's a good many thousand miles so you know it's going to cost something. I'm sorry to ask you to dig down but don't you think it's worth it now? With the \$100 I can just get by with what I have dug up besides. If you want to figure out the cost yourself and you see what it is. I don't want to



say anything to Phelps about me taking over the Research stock as he wants everybody to hold it as as they are preparing to do something new with the company. I wouldn't want him to know I took you out of it at least right now, so I don't want you to write me care of him. Write me A. L. Roberts, Suite 711, Broadway, New York City, and send me the \$100 check. I'll call you before I leave but I would like to get away at once I don't want to waste a day here and there for no good purpose.

Please understand I am just as much concerned as you are and I hope you won't think I am pressing you to hard but I simple can't revise the original way I figured this thing out. This will leave a difference of \$225 you will owe me which we can adjust later. Trusting I will receive your letter when I get back I am as always,

Sincerely yours,

A. L. ROBERTS

(Envelope)

[Cancelled Postage Stamp]

Dr. J. Arthur Hazelton

Mantua

New Jersey

[Stamped]: Los Angeles, Calif., Mar. 14, 11 a.m.  
1940, Arcade Annex.

[Back of envelope, in longhand]: 1472 Broadway,  
Room 721, Longacre Bldg., NYC, NY. A. L. Roberts,  
1447 Broadway, Suite 721 NYC, NY.



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [34]

### COUNT THIRTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about March 7, 1940, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a post-paid envelope addressed to Philadelphia National Bank, Philadelphia, Pennsylvania, which check was in words and figures substantially as follows, to wit: [35]



310-648

NATIONAL UNION ASSOCIATION

310-648

NATIONAL UNION ASSOCIATION

# CASHIER'S CHECK

No. 2619

MULLICA HILL, N. J.

TO THE  
ORDER OF

L. L. Roberts

**FARMERS' NAT'L BANK**  
**\$300,000**

DOLLARS

90

**THE FARMERS NATIONAL BANK**

MULLICA HILL, N. J.

55-419

THE FARMER'S NAT'L BANK

Arthur T. Welford

CAGW15



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [36]

#### COUNT FOURTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about May 8, 1939, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Bank of the Manhattan Company, New York, New York, which check was in words and figures substantially as follows, to wit:





YONKERS, N.Y.

May 8 1939

No. 967

# FIRST NATIONAL BANK

MAIN OFFICE—24 SOUTH BROADWAY  
IN YONKERS, N.Y.

PAY  
TO THE  
ORDER OF

Waive Development Corp.

Three hundred Ninety and 100/100

DOLLARS



Howard S. Langner

PAY TO THE ORDER OF  
Waive Development Corp.  
310-648

MAY 8 1939  
16-17 BANK BUILDING, L.A.S.A.  
FOURTH - SPRING BRANCH  
ALL PRIOR ENDORSEMENTS GUARANTEED  
Pay Bank, Banker of Third Economy  
PAY TO THE ORDER OF

PAY TO THE ORDER OF  
Waive Development Corp.  
310-648  
MAY 8 1939  
16-17 BANK BUILDING, L.A.S.A.  
FOURTH - SPRING BRANCH  
ALL PRIOR ENDORSEMENTS GUARANTEED  
Pay Bank, Banker of Third Economy  
PAY TO THE ORDER OF



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [38]

### COUNT FIFTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about December 19, 1940, in the Central Division of the Southern District of California and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a post-paid envelope addressed to Philadelphia National Bank, Philadelphia, Pennsylvania, which check was in words and figures substantially as follows, to-wit: [39]



POTTSVILLE, Pa. Dec 16 1948 No. 5072

**THE MINERS' NATIONAL BANK** 60-247  
OF POTTSVILLE

PAY TO THE ORDER OF Wake Development Co. \$ 1500.-



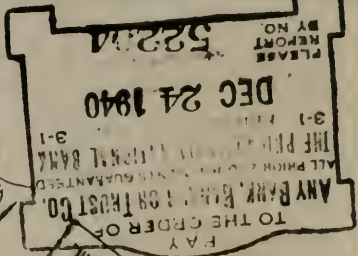
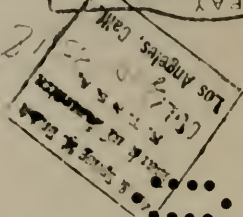
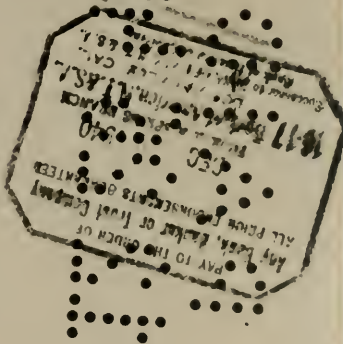
Thelma Hunter

DOLLARS

Elizabeth T. Farmer

16-10000-1 (REVISED 1-1-48)

PAY TO THE ORDER OF  
**Wake Development Co.**  
NATIONAL MINERS' ASSOCIATION  
310-648







contrary to the form of the statute in such case made and provided against the peace and dignity of the United States of America. [40]

### COUNT SIXTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about January 26, 1939, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to E. Barrie Smith, 261 Kenyon Street, Hartford, Connecticut, which letter was in words and figures substantially as follows, to-wit: [41]

## [Wake Development Company Letterhead]

January 26th, 1939

Mr. E. Barrie Smith  
261 Kenyon Street  
Hartford, Connecticut

Dear Sir:

We acknowledge receipt of your registered air-mail letter with enclosures of endorsed certificate 0779 for three hundred shares of Golden Quebec Mines, Limited, and your check in the amount of \$195.00.

Confirming the terms of our letter of January 19th, we will have transferred to your name 55-5/7th shares of Trinidad International Petroleum, Ltd., stock and 55-5/7ths units of Preferential Profit Sharing Notes of like concern, the same will be forwarded to you shortly.

Very truly yours,

A. FAULKNER

1/31/39

Secretary.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [42]

## COUNT SEVENTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present and show that the defendants, at a time to the Grand Jurors unknown but prior to the commission of the overt acts hereinafter alleged and continuously thereafter to the date hereof, in the Central Division of the

Southern District of California and within the jurisdiction of this Court, unlawfully and feloniously did conspire, combine, confederate, and agree together and with each other to commit divers offenses against the United States, to wit: the divers offenses charged against the said defendants in the divers preceding counts of this indictment and made offenses by Sections 17(a)(1) and 5(a)(2) of the Securities Act of 1933, as amended (15 U.S.C. Section 77q(a)(1) and e(a)(2)), and Section 215 of the Criminal Code (18 U.S.C. Sec. 338), the allegations concerning which sections are hereby incorporated by reference to such counts, and that to effect the object of said unlawful and felonious conspiracy the defendants, within the jurisdiction of this Court, did do and cause to be done divers overt acts including the following, to wit: the several acts of placing and causing to be placed letters, envelopes and securities in the United States Mails for mailing and delivery as in the preceding counts of this indictment alleged, as well as certain other overt acts as follows, to wit:

1. On or about July 1, 1940, at Los Angeles, California, defendant Wake Development Company received from Elizabeth T. Parsons, one of the persons to be defrauded, the sum of \$940.00 less \$1.61 bank collection charges, or a net amount of \$938.39.

2. On or about July 2, 1940, at Los Angeles, California, defendant Jacob Morris Danziger withdrew from the bank account of Wake Development

Company by a check signed by him as president of Wake Development Company, and [43] made payable to cash, the sum of \$625.00.

3. On or about July 2, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, purchased for cash a Western Union Money Order in the sum of \$625.60 (two-thirds of \$938.38, the net amount received by Wake Development Company from Elizabeth T. Parsons the day before) payable to George Carleton (an alias used by defendant Warren C. Carter), address "Will call, Western Union, New York City", affixed the signature "A Levy, Hotel Alexandria" to an application for such Western Union Money Order, and caused such money order, less Western Union charges, to be transmitted to the addressee named therein.

4. On or about September 21, 1939, at Los Angeles, California, defendant Wake Development Company received from Adeline B. Skinner, one of the persons to be defrauded, the sum of \$300.00 less bank collection charges.

5. On or about September 22, 1939, at Los Angeles, California, defendant Jacob Morris Danziger caused the sum of \$230.00 to be withdrawn from the bank account of defendant Wake Development Company by a check payable to cash.

6. On or about September 22, 1939, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, purchased for cash a Western Union Money Order in the sum of \$180.00 (ap-

proximately sixty per cent of \$300.00, the amount received by Wake Development Company from Adeline B. Skinner), payable to George Carleton (an alias used by defendant Warren C. Carter), address c/o Western Union, New York City, affixed the signature "A. Levy" to an application for such Western Union Money Order, and caused such money order, less Western Union charges, to be transmitted to the addressee named therein. [44]

7. On or about December 7, 1938, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias T. Mack, purchased for cash a Western Union Money Order in the amount of \$102.56 payable to George Carleton (an alias used by defendant Warren C. Carter), address Hotel Willard, New York City, affixed the signature "T. Mack, Hotel Alexandria", to the application for such money order and caused such money order to be transmitted to the addressee named therein.

8. On or about December 26, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, address 408 South Spring Street, Los Angeles, purchased six United States Postal Money Orders in the aggregate amount of \$530.00, payable to George Carleton (an alias used by defendant Warren C. Carter), address New York City, and affixed the signature "A. Levy" to each of six applications for such money orders.

9. On or about August 12, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias "A. Levy, Hotel Alexandria", purchased



for cash a Postal Telegraph Money Order in the sum of \$646.58, payable to Mr. George Carleton (an alias used by defendant Warren C. Carter), address "Will call, New York City", affixed the signature "A. Levy" to the application for such money order and caused such money order, less Postal Telegraph charges, to be transmitted to the addressee named therein.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Title 18 U.S.C., Section 88.)

WILLIAM FLEET PALMER  
United States Attorney [45]

A true bill

J. R. BREHM,  
Foreman

Bail: Dänziger, \$5,000; Carter, \$10,000; Callahan and Wright, \$1,000.

[Endorsed]: Indictment. Filed Dec. 30, 1941.



At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 20th day of November in the year of our Lord one thousand nine hundred and forty-four.

Present: The Honorable Ben Harrison  
District Judge

No. 15,173—Crim.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

JACOB MORRIS DANZIGER, WARREN C.  
CARTER, JOHN J. L. CALLAHAN, et al.,  
Defendants.

This cause coming on for arraignment and plea of defendants Jacob Morris Danziger, Warren C. Carter, and John J. L. Callahan; Ray H. Kinnison, Assistant U. S. Attorney, appearing as counsel for the Government; Defendant Danziger being present on bond; Defendant Carter being present in custody; Defendant Callahan being absent on bond; and Eloise Mellor, Court Reporter, being present and reporting the proceedings;

On motion of Defendants Danziger and Carter it is ordered that the cause be, and it hereby is, continued to December 4, 1944, at 9:30 A. M., for arraignment and plea of the said three defendants.

In the District Court of the United States for the  
Southern District of California Central Division

No. 15173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as J.  
M. Danziger, et al,

Defendants.

MOTION TO DISMISS INDICTMENT FOR  
WANT OF PROSECUTION, Etc.

And now comes the defendant Jacob Morris Danziger, also known as J. M. Danziger, for himself alone and not for any other defendant named in the above entitled proceedings, and says that the indictment herein, and each and every count thereof should be quashed and the within proceedings dismissed against him for want of prosecution.

In this connection, this defendant moves for dismissal upon the special grounds that:

I.

That the within indictment was filed on the 30th day of December 1941 at which time this defendant was a resident of the County of Los Angeles, State of California and that said residence has continued at all times up to the filing of this motion.

That the United States attorney at all times knew

the place of residence of this defendant and well knew that this [48] defendant could be notified of intention on the part of the United States attorney to arraign this defendant in accordance with the laws and Statutes thereto pertaining. But by reason of the prosecution's evident unwillingness to proceed with the cause, no step was taken by the prosecution to arraign this defendant at any time prior to the month of November 1944.

## II.

That this intentional delay of almost three years from the time of the filing of the within indictment to the time of his proposed arraignment, violates the Sixth Amendment to the Constitution of the United States granting a defendant the right to a speedy trial and in the case of defendant herein, has very seriously prejudiced his rights by reason of the matters set forth in defendant's affidavit attached hereto and made a part of this motion.

Yours, etc.,

A. BRIGHAM ROSE

Attorney for Defendant

Jacob Morris Danziger, etc.

To: Charles H. Carr, Esq. United States Attorney

State of California

County of Los Angeles—ss.

Jacob Morris Danziger being first duly sworn deposes and says:

That he is one of the defendants named in the

indictment referred to in the within motion to dismiss etc.

That the within indictment was filed on the 30th day of December 1941 and that affiant was not notified to appear for arraignment at any time prior to the month of November 1944.

That affiant from the time of filing of said indictment up to the time of his notification to appear in November 1944 was an attorney and counsellor of law with an office in the city of Los Angeles and maintained a residence in the city of Los Angeles during the whole of said time. That affiant was listed in the city directory and in the telephone book and that the United States attorney's office at all times knew his whereabouts and where he could be reached but for approximately three years from the time of his indictment no attempt was made to arraign him.

That the indictment herein referred to to-wit: 15173 alleges a purported conspiracy wherein among other things it is sought to charge affiant with the acts of other defendants committed at various places throughout the United States. Said indictment expressly declaring page 2, line 15, "It was a part of the scheme that the defendants other than Jacob Morris Danziger, hereafter [50] generally called Danziger, would call upon the persons to be defrauded, which persons lived mostly in States in the Eastern part of the United States, and would represent that the stock and so-called Profit-Sharing notes of T.I.P., a Nevada corpora-

tion, which corporation they represented (among other things) was engaged in the oil business on the Island of Trinidad, British West Indies, and elsewhere, and whose securities they represented (among other things) were listed and traded on the Stock Exchange at London, England, at prices of par or higher (the par of the T.I.P. stock was \$5 per share, and the par of each note was one English pound), could be obtained by the persons to be defrauded at much lower prices by sending money and property directly, or through the defendants, to Wake Development Company, a Delaware corporation, or the offices of T.I.P., both at Los Angeles, California."

Affiant avers and submits that pending this interval of delay towit approximately three years several witnesses whose testimony is most vital and material to disprove the charges contained in the indictment against affiant have in the interval of delay died and their testimony is no longer available to him. Furthermore the companies involved and the locale of the properties and the persons who would be in a position to establish unqualifiedly that affiant at all times has acted in a bona fide and lawabiding manner are now places involved in the current war and that all of the delay herein referred to was not occasioned by any act on the part of affiant or with his consent.

Affiant from the inception of the proceedings culminating in the filing of the within indictment recognized that no conduct on his part in connec-



tion with any of the matters referred to in the within indictment could legitimately form the basis of any criminal proceeding against him and therefore assumed that the prosecution of said cause as against affiant was not pressed because of an unwillingness on the part of the United States attorney's office to [51] proceed with the cause as against him. Therefore, this belated attempt to proceed to arraign affiant after three years delay is a denial to affiant of Due Process and his right to a fair and speedy trial.

Wherefore affiant prays that the accompanying motion to dismiss and quash the within indictment be granted.

J. M. DANZIGER

Subscribed and Sworn to before me this 4th day of December, 1944.

[Seal] EDMUND L. SMITH,

Clerk U. S. District Court Southern District of California

By JOHN A. CHILDRESS

Deputy

[Endorsed]: Filed Dec. 4, 1944. [52]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of



Los Angeles on Monday the 11th day of December in the year of our Lord one thousand nine hundred and forty-four.

Present: The Honorable Ben Harrison,  
District Judge

[Title of Cause.]

This cause coming on for arraignment and plea of defendant John J. L. Callahan; hearing on motion of defendant Jacob Morris Danziger to dismiss for want of prosecution; and for plea of defendants Jacob Morris Danziger and Warren C. Carter; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendant Danziger; Ames Peterson, Esq., appearing for the defendant Carter; defendants Danziger and Carter being present; John Q. Bybee, Court Reporter, being present and reporting the proceedings.

Defendant Callahan being absent, it is ordered that this cause go off calendar for arraignment and plea as to said defendant.

The Court orders motion of defendant Danziger to dismiss for want of prosecution denied, and at the request of Attorney Rose, leave is granted to argue said motion and order denying motion is vacated. Attorney Rose now argues in support of said motion to dismiss. The Court makes a statement and orders said motion denied and an exception allowed to defendant Danziger.

The defendant Danziger now enters plea of not

guilty to each of the 17 counts of the indictment and the defendant Carter now enters plea of not guilty to each of the 17 counts of the indictment.

Attorney Lucas makes a statement. Attorney Peterson makes a statement.

It is ordered that this cause be, and it hereby is, transferred to the calendar of Judge McCormick and continued to December 18, 1944, at 10 A. M. for setting for trial of defendants Danziger and Carter. [53]

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In the District Court of the United States in and  
for the Southern District of California Central  
Division

No. 15173—Cr.

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRINIDAD INTERNATIONAL PETROLEUM,  
Ltd., et al.,

Defendants.

ORDER FOR SUMMONS AND CITATION TO  
ISSUE TO CORPORATIONS

A motion having been made in open court for the issuance of Summonses for pleading directed to the Trinidad International Petroleum, Ltd., a corporation organized under the laws of the State

of Nevada, and Wake Development Company, a corporation organized under the laws of the State of Delaware, and it appearing that all of said corporations having been indicted herein on the second Monday of September, 1941, and not having appeared or pleaded, it is

Ordered that Summonses issue to said corporations, directing that they appear for pleading to the indictment hereon on the 16th day of January, 1945, at 9:30 o'clock in the forenoon of that day.

Dated January 4, 1945.

CLAUDE McCOLLOCH

United States District Judge.

[Endorsed]: Filed Jan. 4, 1945. [54]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Saturday the 6th day of January

in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge

No. 15,173—Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB M. DANZIGER, et al.,

Defendants.

This cause coming on for pre-trial conference; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; Ames Peterson, Esq., appearing as counsel for Defendant Carter; A. Brigham Rose, Esq., appearing as counsel for Defendant Danziger; and Myrtle Bennallack, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement. The Court inquires if the defendants are present and Attorney Lucas replies that they are not. The Court makes a statement regarding the position of the Court in the absence of the defendants. Attorney Rose proceeds with his statement. It is ordered that counsel proceed forthwith before Judge McCormick for further proceedings.

At 10:30 A. M. court reconvenes in this case before Judge McCormick, and all being present as before, Attorney Rose makes a statement and Attor-

ney Lucas makes a reply statement. Attorney Peterson makes a statement and Attorney Rose makes a further statement.

It is ordered that trial date of January 16, 1945, at 10 A. M., heretofore set before Judge Claude McColloch stand and that the trial proceed on the said date before Judge McColloch.

At 10:50 A. M. court adjourns. [55]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 10th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge

[Title of Cause.]

This cause coming on for change of plea of defendant Warren C. Carter; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; Ames Peterson, Esq., appearing as counsel for the said defendant, who is present; and Myrtle Bennallack, Court Reporter, being present and reporting the proceedings:

Respective counsel appearing make statements.

Defendant Warren C. Carter, with consent of

the Court and counsel for the Government, withdraws his plea of not guilty, heretofore entered, to count 17 of the Indictment, and now enters plea of guilty to count 17, and the said plea is accepted. The defendant is remanded into custody and no date is fixed for sentence at this time. [56]

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In the District Court of the United States in and  
for the Southern District of California Central  
Division

No. 15173—Cr.

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRINIDAD INTERNATIONAL PETROLEUM,  
Ltd., et al.,

Defendant.

### SUMMONS AND CITATION

You Are Hereby cited and summoned to be and appear before the United States District Court for the Southern District of California at Los Angeles, California, on January 16, 1945, at the hour of 9:30 A. M. in the Court Room of the Honorable Paul J. McCormick, Judge of said Court, to answer a charge made against you by indictment of the Grand Jury for the United States of America, empaneled and sworn in the Central Division of the Southern District of California on the second Monday of September, 1941, for the violation of the



Securities Act, as more fully appears from the Indictment filed in the above-entitled action in the above-entitled court.

Witness the Honorable Paul J. McCormick, Judge of the United States District Court for the Southern District of California, Central Division, at Los Angeles, California, this 4th day of January, 1945.

[Seal]

EDMUND L. SMITH,

Clerk United States District Court for the Southern District of California.

By E. N. FRANKENBERGER

Deputy. [57]

## RETURN ON SERVICE OF WRIT

United States of America,  
Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed Summons & Citation on the therein-named Trinidad International Petroleum, Ltd., et al. By serving Florence McCurdy, Secretary for Jacob M. Danziger, Authorized to Accept Legal Service by handing to and leaving a true and correct copy thereof with her personally at Los Angeles in said District on the 6 day of Jan, 1945.

ROBERT E. CLARK

U. S. Marshal.

By ANDREW BAZAR

Deputy.

[Endorsed]: Filed Jan. 16, 1945. [58]

In the District Court of the United States in and  
for the Southern District of California Central  
Division

No. 15173—Cr.

UNITED STATES OF AMERICA

Plaintiff,

v.

WAKE DEVELOPMENT COMPANY, et al  
Defendant.

### SUMMONS AND CITATION

You Are Hereby cited and summoned to be and appear before the United States District Court for the Southern District of California at Los Angeles, California, on January 16, 1945, at the hour of 9:30 A. M. in the Court Room of the Honorable Paul J. McCormick, Judge of said Court, to answer a charge made against you by indictment of the Grand Jury for the United States of America, empaneled and sworn in the Central Division of the Southern District of California on the second Monday of September, 1941, for the violation of the Securities Act, as more fully appears from the Indictment filed in the above-entitled action in the above-entitled court.

Witness the Honorable Paul J. McCormick, Judge of the United States District Court for the Southern District of California, Central Division,

at Los Angeles, California, this 4th day of January, 1945.

[Seal]

EDMUND L. SMITH,

Clerk United States District Court for the Southern  
District of California.

By E. N. FRANKENBERGER,

Deputy.

A. B. [59]

RETURN ON SERVICE OF WRIT

United States of America,  
Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed Summons & Citation on the therein-named Wake Development Company By Serving Florence McCurdy Secretary for Jacob M. Danziger, Authorized to Accept Legal Service by handing to and leaving a true and correct copy thereof with her personally at Los Angeles in said District on the 6 day of Jan., 1945.

ROBERT E. CLARK

U. S. Marshal.

By ANDREW BAZAR

Deputy.

[Endorsed]: Filed Jan. 16, 1945. [60]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 16th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge.

No. 15,173-Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

This cause coming on for arraignment and plea of defendants Trinidad International Petroleum, Ltd., and Wake Development Co., and for trial of defendant Jacob Morris Danziger on counts 1 to 17 inclusive, and for trial of defendant Warren C. Carter on counts 1 to 16 inclusive, the said defendant Carter having pleaded guilty to count 17; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for Defendant Danziger; Ames Peterson, Esq., appearing as counsel for Defendant Carter; Both of the said defendants being present; and Sam Goldstein, Court Reporter, being

present and reporting the testimony and the proceedings:

The Court and counsel discuss the matter of service of citation for plea of defendants Trinidad International Petroleum, Ltd., and Wake Development Co. Attorney Rose makes a statement relative to affidavit filed in support of objections to proceed to trial. The Court and counsel discuss certain matters and the Court makes a statement re its position in proceeding to trial. It is ordered that this cause be, and it hereby is, continued to 2 p. m. today for further proceedings and that all witnesses return at that time. It is ordered that Defendant Carter be returned to custody and that Defendant Danziger be continued on his present bail. [61]

Court recesses at 10:30 a. m. until 2 p. m. At 2:05 p. m. court reconvenes and all being present as before, Attorney Rose makes a statement.

The Court overrules objections of Defendant Danziger to proceed with the trial and notes an exception.

The Court appoints A. Brigham Rose, Esq., to act as counsel for the corporate defendants and directs that a plea of not guilty be entered as to the said defendants, Trinidad International Petroleum, Ltd., and Wake Development Co.

The Court orders that trial proceed against all defendants on all counts to which pleas of not guilty have been entered.

Attorney Lucas moves that counts 1 to 16, inclusive, of the Indictment be dismissed as to the defendant Warren C. Carter. Counsel for Defendant Danziger objects to the said motion. The Court grants the said motion and allows an exception to the defendant Danziger.

The jury waiver as to defendant Jacob M. Danziger is signed and ordered filed. Attorney Rose orally waives jury trial as to the defendants Trinidad International Petroleum, Ltd., and Wake Development Company, and the Court accepts said oral waiver.

Attorney Peterson is excused and retires from the court room.

William Ladd is called, sworn, and testifies for the Government.

Attorney Lucas moves for dismissal of the Indictment against defendants John J. L. Callahan and W. W. Wright and the Court so orders.

Witness Ladd testifies further.

U. S. Exhibits 1 to 15, inclusive, are offered and admitted into evidence subject to being later connected up. There is no cross-examination of Witness Ladd. At 3:15 p. m. court recesses. At 3:35 p. m. court reconvenes and all being present as before, Attorney Rose makes a statement re exceptions to rulings on admissibility of exhibits offered by the Government.

Florence Hedge is called, sworn, and testifies for the Government. U. S. Exhibit 16 is offered and



admitted into evidence subject to being connected up. Photostatic copies of said exhibit may be [62] substituted for the originals at the conclusion of the trial. Witness Hedge testifies further. U. S. Exhibit 17 is offered and admitted into evidence subject to being connected up.

Douglas Wilkes is called, sworn, and testifies for the Government. U. S. Exhibits 18 and 19 are offered and admitted into evidence, subject to being connected up. Counsel stipulate as to testimony of Witness Wilkes re certain documents. U. S. Exhibits 20, 21, and 22 are offered and admitted into evidence subject to being connected up.

It is ordered that further trial be, and it hereby is continued to 10 a. m., January 17, 1945. [63]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 17th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob Morris Danziger, the Trinidad

International Petroleum, Ltd., and the Wake Development Co.; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Dr. J. Arthur Hazelton is called, sworn, and testifies for the Government. U. S. Exhibit 23 is offered and admitted in evidence; U. S. Exhibit 24 is marked for identification and then offered and received in evidence; U. S. Exhibits 25 and 26, respectively, are offered and received in evidence; U. S. Exhibit 27 is marked for identification; U. S. Exhibit 28 is offered and received in evidence; U. S. Exhibits 29 and 30 are offered and received in evidence; and U. S. Exhibit 31 is marked for identification.

At noon court recesses until 2 P. M. At 2:18 P. M. court reconvenes herein and all being present as before, Witness Dr. J. Arthur Hazelton resumes the stand and testifies further. U. S. Exhibits 32, 33, and 34, respectively, are offered and received in evidence. U. S. Exhibit No. 17 is re-offered. Attorney Rose objects to the said exhibit being received in evidence and states the grounds thereof. The objection is overruled and the entire exhibit is [64] admitted into evidence as U. S. Exhibit 17.

U. S. Exhibits 35 and 36 are offered and received in evidence.

At 3:15 P. M. court recesses. At 3:26 P. M. court reconvenes herein and all being present as before, Witness Hazelton testifies further.

U. S. Exhibit 37 is offered and received in evidence.

Miss Adeline B. Skinner is called, sworn, and testifies for the Government. It is ordered that the cause be, and it hereby is, continued to 10 A. M., January 18, 1945, for further trial. [65]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 18th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for defendants on trial; Samuel Goldstein, Court Reporter, being present

and reoprtng the proceedings; the defendant Danziger being present:

Miss Adeline B. Skinner resumes the stand and testifies further for the Government.

U. S. Exhibits Nos. 38, 39, 40, 42, 43 and 44 are admitted into evidence and No. 41 is marked for identification.

At 11:05 A. M. Court recesses and reconvenes at 11:16 A. M.; all present as before.

Harold J. McCoy is called, sworn, and testifies for the Government.

U. S. Exhibits Nos. 45 to 53, inclusive, are admitted into evidence.

At 12:03 P. M. Court recesses to 2 P. M. Court reconvenes at 2 P. M.; all present as before. Harold J. McCoy resumes the stand and testifies further. U. S. Exhibits Nos. 54 and 55 are admitted into evidence.

Witness McCoy testifies further on cross-examination and the witness is excused.

Attorney Lucas now offers into evidence transcript of testimony of defendant Jacob M. Danziger before the Securities & Exchange Commission [66] and requests permission to read same into the record. Attorney Rose makes a statement and objects to the introduction of said testimony. The Court passes the matter temporarily and directs counsel to proceed with other testimony.

Allen G. Mainland is called, sworn, and testifies for the Government.

Attorney Lucas offers file of correspondence which the witness testified he received from Mr. Danziger. Attorney Rose asks permission to examine the witness on voir dire and the Court grants said permission and Attorney Rose examines on voir dire.

Attorney Rose objects to the offer of the exhibit and states the grounds of his objection. Attorney Lucas makes a statement. The documents are ordered admitted into evidence as U. S. Exhibit No. 56 and the exhibit is so marked.

Witness Mainland testifies further and U. S. Exhibit No. 57 is received into evidence. The witness testifies further and U. S. Exhibits Nos. 58 and 59 are admitted into evidence.

At 3:40 P. M. Court recesses and reconvenes at 3:50 P. M. Witness Mainland resumes the stand and testifies further.

U. S. Exhibits Nos. 60 to 69, inclusive, are admitted into evidence. U. S. Exhibits Nos. 70 to 73, inclusive, are marked for identification. U. S. Exhibits Nos. 74 to 80, inclusive, are admitted into evidence.

At 4:55 P. M. Court recesses herein to 10 A. M. January 19, 1945, for further trial, and Court adjourns. [67]



At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 19th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants Jacob M. Dänziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter being present and reporting the proceedings; the defendant being present on bond;

Attorney Rose makes a statement re presentation of testimony of defendant Dänziger taken before Allen G. Mainland of the Securities & Exchange Commission at Los Angeles, Calif., on June 5, 6, 9 and 16, 1941, and stipulates that the transcript of said testimony is true and correct to the best of the ability of the transcriber. Attorney Lucas now reads said testimony, and U. S. Exhibits Nos. 81 and 82 are admitted into evidence. Attorney Lucas resumes reading testimony, and at 12



o'clock noon Court recesses to 2 P. M. Court reconvenes at 2 P. M.; all present as before. Attorney Rose relieves Attorney Lucas and reads testimony of defendant Danziger. At 3:50 P. M. Court recesses and reconvenes at 4:04 P. M.; all present as before.

Attorney Lucas offers in evidence original letter from J. M. Danziger, President, Wake Development Company, dated November 13, 1939, to Mrs. Florence S. Lawyer, and same is admitted into evidence and attached to and made a part of U. S. Exhibit 56, over objection by Attorney Rose; exception noted.

Attorney Rose continues reading of testimony.

Attorney Lucas offers in evidence original letter from A. Faulkner dated May 8, 1939, to Mrs. Florence S. Lawyer. Over objection by Attorney Rose, the document is admitted into evidence and attached to and made a part of Exhibit 56; exception noted.

Attorney Rose continues reading of testimony, and U. S. Exhibit 83 is marked for identification. U. S. Exhibit 84 is marked for identification. Later, U. S. Exhibits 83 and 84 for identification are offered and admitted into evidence, and are attached to and made a part of Exhibit 56.

Attorney Lucas now continues reading of testimony of defendant Danziger. At 4:05 P. M. Court recesses and reconvenes at 4:15 P. M.; all present as before.

Attorney Lucas continues reading of testimony, and U. S. Exhibit 70 for identification is offered in evidence by Attorney Lucas. Attorney Rose makes a statement and examines Exhibit 70 for identification, and objects to its introduction into evidence. The objection is overruled and the exhibit is admitted into evidence as U. S. Exhibit 70; exception noted. Additional documents are now offered and admitted into evidence and attached to and made a part of Exhibit 70.

At 5 P. M. Court adjourns to 9 A. M. January 20, 1945, for further trial herein. [69]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Saturday, the 20th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum Ltd., and the Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brig-

ham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and proceedings:

Attorney Lucas continues reading testimony of Defendant Danziger taken before the Securities and Exchange Commission.

Allen G. Mainland resumes the stand and testifies further.

U. S. Exhibit 72 for identification is offered in evidence by Attorney Lucas. Attorney Rose objects to its introduction and states the grounds thereof. Objections are overruled and documents are admitted in evidence and marked U. S. Exhibit 72.

U. S. Exhibit 85 is admitted in evidence. U. S. Ex. 73 for identification is received in evidence.

At 10:15 A.M. court recesses. At 10:35 A.M. court reconvenes and all being present as before, Attorney Lucas continues reading testimony. U. S. Exhibit 86 is offered and admitted in evidence.

Allen G. Mainland testifies further.

Attorney Lucas continues reading testimony and offers in evidence certain additional documents as part of U. S. Exhibit 85, [70] and the said additional documents are admitted in evidence and attached to U. S. Exhibit 85.

U. S. Exhibits 85-A, 87, 88, and 89 are offered and admitted in evidence. U. S. Exhibits 90 and

91 are marked for identification. U. S. Exhibit 71 for Ident. is offered and admitted in evidence. U. S. Exhibit 92 is offered and admitted in evidence.

The Court and counsel discuss certain matters re testimony of handwriting expert.

It is ordered that the cause be, and it hereby is continued to 10 A.M., January 23, 1945, for further trial. [71]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Tuesday, the 23rd day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants J. M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present

and reporting the proceedings; the defendant Danziger being present:

Allen G. Mainland, heretofore sworn, resumes the stand and testifies further.

U. S. Exhibit No. 93 is admitted into evidence. At 10:55 A.M. Court recesses and reconvenes at 11:15 A.M.; all present as before. Witness Mainland testifies further.

U. S. Exhibit No. 94 is admitted into evidence.

At 11:55 A.M. Court recesses to 1:45 P.M. Court reconvenes at 1:45 P.M.; all present as before. Witness Mainland testifies further.

Defendants' Exhibits A, B, C, D and E are admitted into evidence.

Attorney Rose makes offer of entire investigation file of the Securities & Exchange Commission. The offer is rejected.

At 2:44 P.M. Court recesses and reconvenes at 2:55 P.M.; all present as before.

Witness Mainland testifies further. Defendants' Exhibit F is admitted into evidence. [72]

James E. P. Conway is called, sworn, and testifies for the Government.

Counsel stipulate as to signatures and handwriting on various Government's exhibits, as reflected by the Court Reporter's notes, to-wit: Exhibits 14, 15, 16, 18, 19, 20, 21, 22, 38, 39, 44, 54, 55, 65 and 75.



U. S. Exhibits 95 and 96 are marked for identification.

Willard Eugene Warren (known in the indictment as Warren C. Carter) is called sworn, and testifies for the Government.

At 4:10 P.M. Court recesses herein to 10 A.M. January 24, 1945.

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 24th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Attorney Lucas makes a statement. Attorney



Rose asks that a group of papers be made a part of Defendants' Exhibit A, and it is so ordered. Counsel enter into a certain stipulation and the Witness Conway is excused.

Willard Eugene Warren, heretofore sworn, resumes the stand and testified further. U. S. Exhibit 97 is marked for identification and later offered into evidence and the offer is now withdrawn. The witness, Willard Eugene Warren, testifies further concerning said exhibit. U. S. Exhibit 97 for identification is now admitted into evidence. U. S. Exhibits 98 and 99, respectively, are offered and admitted in evidence.

At 10:50 A.M. court recesses. At 11:02 A.M. court reconvenes.

Witness Warren resumes the stand and testifies further. U. S. Exhibits 100, 101, and 102 are offered and admitted in evidence.

U. S. Exhibit 41 for Identification is offered in evidence by Attorney Lucas, and is admitted into evidence over objection by Attorney Rose. [74]

U. S. Exhibit 103 is offered and admitted in evidence.

At 11:45 A.M. court recesses until 1:45 P.M. At 1:47 P.M. court reconvenes.

U. S. Exhibits 104 and 105, respectively, are received in evidence.

V. P. Lucas is sworn and makes a statement under oath.

Witness Warren testifies further. At 3 P.M. court recesses. At 3:16 P.M. court reconvenes. Witness Warren resumes the stand and testifies further.

U. S. Exhibit 85-B is admitted into evidence. An envelope addressed to George Carlton is received in evidence and made a part of U. S. Exhibit 105.

U. S. Exhibit 106 is offered and admitted in evidence.

Carbon copy of letter dated Nov. 13, 1939, with addressee cut out is admitted in evidence, and made a part of U. S. Exhibit 56, Lawyer correspondence.

Letter dated January 9, 1939, to Harry F. Pitts, signed A. Faulkner, Secretary, is received in evidence and made part of U. S. Exhibit 58.

At 4:27 P.M. court recesses in the trial of this cause until 10 A.M., January 25, 1945. [75]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United State of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 25th day of January, in

the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Willard Eugene Warren resumes the stand and testifies further. Attorney Lucas offers certain documents into evidence. Witness Warren is temporarily withdrawn and Allen G. Mainland resumes the stand and testifies. The documents previously offered are admitted into evidence over objection and attached to and made a part of U. S. Ex. 59.

Witness Warren resumes the stand and testifies further.

Attorney Lucas offers certain documents in evidence. The documents are admitted into evidence over objection and attached to and made a part of U. S. Ex. 61. Stock Certificate No. 1743 of the Great Eastern Natural Gas Co. is offered and admitted in evidence as part of U. S. Ex. 61 over objection by Attorney Rose.

At 11:05 A. M. court recesses. At 11:19 A.M. court reconvenes.

Witness Warren resumes the stand and testifies further.

At 11:55 A.M. court recesses to 2 P.M. At 2:07 P.M. court reconvenes and Willard Eugene Warren resumes the stand and testifies further.

Attorney Lucas offers a certain letter in evidence as part of [76] U. S. Ex. 27 and said letter is received in evidence and attached to and made a part of U. S. Ex. 27.

At 3:10 P.M. court recesses. At 3:20 P.M. court reconvenes. Witness Warren continues testimony. U. S. Ex. 96 for identification is offered and admitted in evidence. U. S. Ex. 95 for identification is offered and admitted in evidence. Witness Warren is withdrawn temporarily.

C. E. Webster is called, sworn, and testifies for the Government.

Witness Warren resumes the stand and testifies further. U. S. Exhibits 107, 108, and 109 are offered and admitted in evidence. U. S. Exhibit 108 is now withdrawn, and U. S. Exhibit 110 is offered and admitted in evidence.

At 4:30 P.M. it is ordered that this cause be, and it hereby is, continued to January 26, 1945, at 10 A.M., for further trial. [77]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 26th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; defendant Jacob Danziger being present with his attorney, Ames Peterson, Esq.; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings;

Willard Eugene Warren resumes the stand and testifies further. U. S. Exhibit 111 is offered and admitted in evidence.

Witness Warren now testifies on cross-examination. Attorney Peterson, representing the defendant and witness Willard Eugene Warren, makes a statement and the said witness testifies further. Defendants' Exhibit G is offered and admitted into evidence.

At 11 A.M. court recesses. At 11:15 A.M. court

reconvenes. Witness Warren testifies further. At noon court recesses until 1:30 P.M.

At 1:30 P.M. court reconvenes, and counsel for the Government and the reporter being present as before, Defendant Danziger and counsel being absent; at 1:38 P.M. Defendant Danziger and counsel being present it is ordered that the trial proceed.

Willard Eugene Warren resumes the stand and testifies further on cross-examination. Defendants' Exhibits H, I, and J are marked for identification. Defendants' Exhibits K, L, M, N, and O are offered and admitted into evidence. [78]

At 2:50 P.M. court recesses. At 3 P.M., court reconvenes.

Witness Warren resumes the stand and testifies further.

At 4 P.M. it is ordered that the cause be, and it hereby is, continued to 2 P.M., January 29, 1945, for further trial.

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 29th day of January in the year of our Lord one thousand nine hundred and forty-five.



Present: The Honorable Claude McColloch,  
District Judge

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Co.; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings; at 2:20 P. M. court convenes herein; Defendant Danziger present.

Willard Eugene Warren resumes the stand and testifies further. Defendants' Exhibit P is offered and admitted in evidence. Defendants' Exhibits Q and R are marked for identification. U. S. Ex. 108, heretofore marked in evidence and later withdrawn, is now reoffered and admitted into evidence as U. S. Ex. 108. U. S. Exhibits 112 and 113 are offered and admitted into evidence.

At 3:32 P. M. the Government rests.

At 3:34 P. M. it is ordered that this cause be, and it hereby is, continued to 10 A. M., January 30, 1945. [80]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central

Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 30th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement and asks that the defendant Willard Eugene Warren be excluded from the court room and states the grounds of his motion. Attorney Lucas objects to the motion and argues. The Court denies the motion.

Attorney Rose now moves to quash the return of service of summons or citation on defendant Trinidad International Petroleum, Ltd, and states the grounds of said motion and argues. Attorney Lucas argues in opposition to said motion. Attorney Rose argues further. The Court reserves ruling on the motion.

Attorney Rose asks that it be deemed that the same motion and on the same grounds is directed on behalf of the defendant Wake Development

Company. The Court so orders and reserves decision on the motion to quash as to said defendant.

Attorney Rose makes a further statement as to the Indictment and moves to quash the Indictment and states the grounds thereof. Attorney Lucas argues in opposition. The Court reserves decision [81] on the motion.

Attorney Rose makes a further statement as to count one of the Indictment and the lack of proof in the testimony.

At 11 A. M. court recesses. At 11:12 A. M. court reconvenes.

Attorney Rose resumes his argument, and moves in behalf of Defendant Danziger, individually, that count one of the Indictment be quashed and dismissed and states the grounds thereof. Attorney Lucas argues in opposition to the motion to quash the Indictment in its entirety.

At 11:55 A. M. court recesses until 2 P. M. At 2:04 P. M. court reconvenes.

Attorney Rose makes a statement re Defendants' Exhibit A.

Attorney Lucas resumes his argument.

At 3 P. M. court recesses. At 3:10 P. M. court reconvenes. Attorney Lucas resumes his argument.

At 4:10 P. M. court recesses in the trial of this cause until 10 A. M., January 31, 1945. [82]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United

States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 31st day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the proceedings.

Attorney Lucas resumes argument. At 10:16 A.M. Attorney Rose argues further.

The Court reserves ruling on motion to dismiss count one as to Defendant Danziger. At 10:54 A.M. court recesses. At 11:06 A.M. court reconvenes.

Attorney Rose now moves to quash, annul, and dismiss count one of the indictment against defendant Trinidad International Petroleum, Inc., and states the grounds thereof. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count one against defendant Wake Devel-

opment Company and states the grounds thereof. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count two of the indictment as to Defendant Danziger individually and states the grounds thereof and argues in support of motion.

Attorney Rose now states additional grounds in support of his motion to dismiss count one as to each defendant on trial.

The Court and counsel discuss certain matters.

Attorney Rose now again moves on behalf of Defendant Danziger [83] individually that count two of the indictment be quashed, annulled, and dismissed and states the grounds of said motion. Ruling is reserved.

Attorney Rose now moves on behalf of Defendant Trinidad International Petroleum, Ltd., that count two be quashed, annulled, and dismissed and states the grounds. Ruling is reserved.

Attorney Rose moves on behalf of Wake Development Co. that count two be quashed, annulled, and dismissed, and states the grounds. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count three as to Defendant Danziger and states the grounds. Ruling is reserved.

At 11:45 A.M. court recesses until 2 P.M. At 2:16 P.M. court reconvenes.

Attorney Rose makes a statement re theory of the Government's case, and moves to quash, annul and dismiss count three as to defendants Trinidad International Petroleum, Ltd., and Wake Develop-



ment Co. and states the grounds. Ruling is reserved.

Attorney Rose moves to quash, annul, and dismiss counts 4, 5, 6, and 7 as to the three defendants on trial herein and states the grounds. Ruling thereon is reserved.

The Court asks that Attorney Lucas state the Government's theory as to counts 1 to 7, inclusive, and Attorney Lucas argues to the court accordingly.

At 3:18 P.M. court recesses. At 3:30 P.M. court reconvenes.

Attorney Rose makes a statement and moves to quash, annul, and dismiss counts 8, 9, 10 and 11 as to all of the three defendants on trial herein, and states the grounds. Ruling thereon is reserved.

Attorney Lucas makes a statement of the Government's theory re counts 8, 9, 10, and 11. The Court and counsel discuss certain matters.

It is ordered that the cause be, and it hereby is, continued to Feb. 1, 1945, at 10 A.M., for further trial. [84]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 1st day of February, in the year of our Lord one thousand nine hundred and forty-five.



Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Attorney Rose makes a statement and moves that counts 12, 13, 14, 15, and 16 be quashed, annulled, and dismissed and states the grounds thereof. Ruling is reserved.

Attorney Lucas states the theory of the Government on counts 12, 13, 14, 15 and 16. At 11:05 A.M. court recesses. At 11:15 A.M. court reconvenes.

Attorney Rose makes a statement as to count 17 and moves as to the three said defendants on trial herein to quash, annul, and dismiss count 17 and states the grounds thereof. Decision is reserved.

Motions to quash service of citation on defendants Trinidad International Petroleum, Ltd., and Wake Development Company, and to dismiss the Indictment as to all defendants, are denied, with exceptions allowed to the defendants. Motions to dismiss counts 1 to 7, inclusive, and 12 to 17, inclusive, are denied, with exceptions allowed to the

defendants. Decision on motions to dismiss counts 8, 9, 10, and 11 is reserved. [85]

Jacob Morris Danziger, defendant, is called, sworn, and testifies in his own behalf.

On motion of Attorney Lucas it is ordered that count 7 be, and it hereby is, dismissed.

Defendant Danziger testifies further and Defendant's Exhibits S and T are admitted into evidence.

At 11:55 A.M. court recesses. At 2 P.M. court reconvenes.

Defendant Danziger resumes the stand and testifies further.

Defendants' Exhibit U is admitted into evidence; Defendants' Exhibit Q for Ident. is admitted into evidence; Defendants' Exhibit V is admitted into evidence; Defendants' Exhibit H for Ident. is admitted into evidence; Defendants' Exhibits W and X are admitted into evidence; Defendants' Exhibits I, J, and R for Ident. are admitted into evidence.

At 3:10 P.M. court recesses. At 3:24 P.M. court reconvenes.

Defendant Danziger resumes the stand and testifies further. Defendants' Exhibit Y is admitted into evidence.

At 4:35 P.M. it is ordered that the cause be, and it hereby is, continued to February 2, 1945, at 10 A.M., for further trial. [86]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United

States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 2nd day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present and reporting the proceedings; the defendant Danziger being present;

Jacob Morris Danziger, defendant, resumes the stand and testifies further in his own behalf. Defendants' Exhibits Z, AA, BB, and CC are admitted into evidence.

Attorney Rose makes a statement re further examination of defendant Danziger on direct examination, and the Court suggests that Attorney Lucas commence his cross-examination on matters thus far covered in the direct examination and that Attorney Lucas complete his direct examination later.

At 10:50 A.M. Court recesses and reconvenes at 11 A.M. Witness Danziger resumes the stand

and testifies on cross-examination by Attorney Lucas.

U. S. Exhibit No. 114 is admitted into evidence.

At 12 o'clock noon Court recesses to 2 P.M. Court reconvenes at 2:04 P.M.; all present as before. Witness Dänziger resumes the stand and testifies further. U. S. Exhibit No. 115 is admitted into evidence. [87]

At 3:10 P.M. Court recesses and reconvenes at 3:20 P. M. all present as before.

Witness Dänziger resumes the stand. There is no further direct or cross-examination.

The defendants rest, and the Government offers no rebuttal testimony.

Attorney Hollis Black of the Securities and Exchange Commission addresses the Court on a question of law as to the registration counts in the indictment, viz: counts 8, 9, 10 and 11.

The Court and counsel discuss certain matters.

The Government waives opening argument.

Counts 8, 9, 10 and 11 are ordered stricken and a finding of not guilty is ordered entered as to said counts.

It is ordered that this cause be, and it hereby is, continued to 10 A.M. February 3, 1945, for argument and further proceedings.

Court adjourns at 3:45 P.M. [88]

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At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central

Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Saturday, the 3rd day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, Appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present and reporting the proceedings; the defendant Danziger being present:

The Court makes a statement re objections of the defendants to the introduction by the Government of certain documentary evidence, which documents were received subject to being later connected up, and the Court rules that all documentary evidence received at the trial in that manner shall be deemed to have been received and treated as competent for all purposes except where specifically rejected. Exception is noted for the defendants.

Attorney Rose now argues the law in connection with his objections made during the course of the trial as to the admissibility of certain evidence.

Attorney Rose now argues in behalf of the defendants on the merits of the case.



At 10:47 A.M. Attorney Lucas argues to the Court in behalf of the Government. [89]

The Court finds the defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company guilty as charged in counts 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, 16 and 17 of the indictment and orders this cause referred to the Probation Officer for investigation and report as to each of said defendants and as to defendant Warren C. Carter (true name Willard Eugene Warren), and orders this cause continued to Saturday, February 10, 1945, at 10 A.M. for hearing on said reports and for sentence of said defendants.

The Court asks for the views of the Government on the question of allowing the defendant Danziger to remain at liberty on present bond pending sentence, or committing the defendant forthwith. Attorney Lucas makes a statement.

It is ordered that the defendant Danziger be permitted to remain at liberty on present bond pending sentence. [90]

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District Court of the United States

No. 15173—Criminal

UNITED STATES OF AMERICA,

vs.

TRINIDAD INTERNATIONAL PETROLEUM,  
LTD., et al.,

UNITED STATES SUBPENA

To: Harold J. McCoy, 541 Grant St., Cadiz, Ohio.

You Are Hereby Commanded that laying aside



all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES  
Deputy Clerk [91]

#### RETURN ON SERVICE

Received this writ at Steubenville, Ohio, on December 29, 1944, and on December 30, 1944, at Cadiz, Ohio, I served it on the within-named Harold J. McCoy, (Personally) and left a true copy thereof or a subpoena ticket with the person named above.

HAROLD K. CLAYPOOL,  
U. S. Marshal

By G. E. FITHEN,

Marshal's Fees: Travel 52, \$2.56; Service .50;  
Total, \$3.06.

[Endorsed]: Filed Jan. 9, 1945. [92]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: J. Arthur Hazelton, Mantua, New Jersey.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m., of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,

Clerk

By ERWIN HAMES,

Deputy Clerk [93]

RETURN ON SERVICE

Received this writ at Camden, N. J., on 12/27/44 and on 12/27/44 at Mantua, N. J., I served it on the within-named J. Arthur Hazelton by leaving with Janette Hazelton His Wife at his residence in

Mantua, N. J., and left a true copy thereof or a subpena ticket with the person named above.

HUBERT J. HARRINGTON,  
U. S. Marshal

By JAMES A. FOLEY,  
Deputy.

[Endorsed]: Department of Justice. Received  
Dec. 27, 1944. U. S. Marshal, Camden, N. J.

[Endorsed]: Filed Jan. 2, 1945. [94]

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[Title of Court and Cause.]

UNITED STATES SUBPENA

To: Dr. Geo. E. Paddleford, 415 Adelyn Dr., San  
Gabriel, California.

You Are Hereby Commanded that laying aside  
all and singular your business and excuses, you be  
and appear in the District Court of the United  
States for the Southern District of California at  
the Courthouse, in the city of Los Angeles, in said  
district, on the 16th day of January, A.D. 1945, at  
9:30 o'clock a.m. of said day, then and there to  
testify and give evidence on behalf of the United  
States, and not to depart the Court without leave  
thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,  
Judge of said District Court of the United States,  
this 30th day of December, A. D. 1944, and in the

169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk. [95]

### RETURN ON SERVICE

Received this writ at Los Angeles, California, on Jan. 1, 1945, and on Jan. 14, 1945, at 415 Adelyn Dr., San Gabriel, I served it on the within-named Dr. Geo. E. Paddleford and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,  
U. S. Marshal  
By RAY M. FLEMING,  
Deputy.

[Endorsed]: Filed Jan. 20, 1945. [96]

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[Title of District Court and Cause.]

### UNITED STATES SUBPENA

To: Adeline B. Skinner, 69 Main St., Manasquan,  
New Jersey.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said

district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m., of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)                    EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk.

### RETURN OF SERVICE

Received this writ at Trenton, N. J., on December 27th, 1944, and on December 27th, 1944, at Manasquan, N. J., I served it on the within-named Adeline B. Skinner, personally, together with a copy of a letter dated 12-20-'44 from U. S. Attorney S. Dist. of Calif., and left a true copy thereof or a subpoena ticket with the person named above.

HUBERT J. HARRINGTON,  
U. S. Marshal.

By CHARLES M. PEDRICK,  
Deputy.

[Endorsed]: Department of Justice. Received Dec. 26, 1944. U. S. Marshal, Chief Deputy.

[Endorsed]: Filed Jan. 2, 1945. [98]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Eugene O'Connor, Chief Investigator of Blue Sky Department, Office of States Attorney, 507 County Building, Chicago, Illinois.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California at the Courthouse, in the city of Los Angeles, in said district, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 30th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk. [99]



RETURN ON SERVICE

Ret. Unex. Witness Deceased, this 17th of Jan.,  
1945.

WM. H. McDONNELL,  
U. S. Marshal.

By C. SIMON,  
Deputy.

Northern District of Illinois

[Endorsed]: Filed Jan. 26, 1945. [100]

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[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Florence S. Lawyer, 30 Odell Ave., Yonkers,  
New York.

You Are Hereby Commanded that laying aside  
all and singular your business and excuses, you be  
and appear in the District Court of the United  
States for the Southern District of California, at  
the Courthouse, in the city of Los Angeles, in said  
district, on the 15th day of January, A.D. 1945, at  
9:30 o'clock a.m. of said day, then and there to  
testify and give evidence on behalf of the United  
States, and not to depart the Court without leave  
thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,  
Judge of said District Court of the United States,  
this 20th day of January, A.D. 1944, and in the

169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk. [102]

### RETURN ON SERVICE

Received this Writ at New York, N. Y., on Dec. 23, 1944, and on Dec. 27, 1944, at 30 Odell Ave., Yonkers, N. Y., I served it on the within named Florence S. Lawyer, by leaving a copy thereof or a subpena ticket with her personally.

JAMES E. MULCAHY,  
U. S. Marshal, SDNY.

By EDWARD V. McKEMAN,  
Deputy.

Marshal's Fees: Travel, \$1.20; Service, .50;  
Total, \$1.70.

[Endorsed]: Filed Jan. 2, 1945. [103]

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[Title of District Court and Cause.]

### UNITED STATES SUBPENA

To: Mrs. Elizabeth Parsons, 801 Mahantongoo St.,  
Pottsville, Pennsylvania.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be

and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Withness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of January, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk. [104]

#### RETURN ON SERVICE

Received this writ at [illegible] on 12-26-44 and on 12-27-44 at Pottsville, Pa., I served it on the within-named person and left a true copy thereof or a subpena ticket with the person named above.

FRANCIS R. SMITH,  
U. S. Marshal.

By J. V. McGRARY,  
Deputy.

[Endorsed]: Filed Jan. 16, 1945. [105]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: D. B. Wilke, Chief Clerk, Western Union  
Telegraph Co., 610 So. Spring St., Los Angeles,  
California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Original application for Western Union Money Order in the sum of \$621.54 dated July 2, 1940, purchased by A. Levy, payable to George Carlton.

(2) Original Western Union Money Order No. G. 12746, for \$621.54, dated July 2, 1940, payable to George Carlton and issued at 1440 Broadway, New York City, New York.

(3) Original application for Western Union Money Order dated December 7, 1938, purchased by T. Mack, and payable to George Carlton, in the amount of \$100.00.

(4) Original Western Union Money Order No. F. 471188, in the sum of \$100.00, dated December 7, 1938, payable to George Carlton, and issued at 2138 Broadway, New York City, New York.

(5) Original application for Western Union Money Order dated September 22, 1939, purchased by A. Levy, and payable to George Carlton in the amount of \$177.19.

(6) Original Western Union Money Order No. F. 710097, for \$177.19, dated September 22, 1939, payable to George Carlton, issued at 2138 Broadway, New York City, New York.

(7) Original application for Western Union Money Order dated May 8, 1940, purchased by A. Levy and payable to George Carlton, in the amount of \$909.19.

(8) Original Western Union Money Order No. F. 976148, dated May 8, 1940, for \$909.19, payable to George Carlton issued at 1440 Broadway, New York City, New York.

(9) Original application for Postal Telegraph Money Order dated August 12, 1940, purchased by A. Levy, payable to George Carlton in the amount of \$642.60.

(10) Original Postal Telegraph Money Order No. H. 431534, dated August 12, 1940, for \$642.60, payable to George Carlton and issued at 153 West 42nd St., New York City, New York.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,  
District Judge of the United States, this 22nd day

of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk.

CHARLES H. CARR,  
U. S. Attorney. [106]

### RETURN ON SERVICE

Received this writ at Los Angeles on Dec. 23, and to Dec. 23, at Los Angeles, I served it on the within-named D. B. Wilke, Ch. Clk., W. U. Tel. Co. and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,  
U. S. Marshal.

By JOHN C. BROHM,  
Deputy.

[Endorsed]: Filed Jan. 4, 1945. [107]

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[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Bank of America, National Trust and Savings  
Association, 4th and Spring Street Branch, Los  
Angeles, California.

You Are Hereby Commanded to appear in the



District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Your collection record No. 310-3036, dated August 8, 1940, showing check for \$1,000.00 drawn on the Miners National Bank of Pottsville, Pennsylvania.

(2) Your collection record No. 310-0807, dated March 7, 1940, showing check for \$300.00 drawn on the Farmers National Bank, Mullica Hill, New Jersey.

(3) Your collection record No. 310-0505, dated November 28, 1938, covering check for \$350.00, drawn on The Safety Fund National Bank, Fitchburg, Massachusetts.

(4) Your collection record No. 310-1682, dated September 15, 1939, showing check for \$300.00, drawn on The First National Bank, Farmingdale, New Jersey.

(5) Your collection record No. 310-2675, dated May 3, 1940, in the amount of \$1370.00 drawn on Miners National Bank, Pottsville, Pa.

(6) Your collection record No. 310-2879, dated June 27, 1940, being a note for \$940.00, maker Elizabeth Parsons, paid through Miners National Bank, Pottsville, Pa.

(7) Your collection record No. 310-3518, dated December 19, 1940, showing check in the amount of \$1500.00, drawn on Miners National Bank, Pottsville, Pennsylvania.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, District Judge of the United States, this 21st day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,

Clerk.

By IRWIN HAMES,

Deputy Clerk.

CHARLES H. CARR,

U. S. Attorney. [108]

### RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Dec. 22, 1944 and on Dec. 22, 1944, at Los Angeles, Calif., I served it on the within-named Bank of America National Trust & Savings Association by serving the Asst. Cashier and Chief Clerk, Wm. Ladd, and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,

U. S. Marshal.

By EARL L. BAUGHER,

Deputy.

[Endorsed]: Filed Jan. 4, 1945. [109]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Mary D. Briggs, Postmaster, Federal Building, Los Angeles, California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Application for Domestic Money Order No. 983065, dated December 26, 1940 issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(2) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(3) Application for Domestic Money Order No. 983066, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408<sup>7</sup> S. Spring St., Los Angeles, California.

(4) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(5) Application for Domestic Money Order No. 983067, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carl-

ton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(6) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(7) Application for Domestic Money Order No. 983068, dated December 26, 1940 issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(8) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(9) Application for Domestic Money Order No. 983069, dated December 26, 1940 issued by Station "N" in the sum of \$100.00 payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(10) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(11) Application for Domestic Money Order No. 983070, dated December 26, 1940, issued by Station "N" in the sum of \$30.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(12) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(13) Original United States Postal Money Order No. 414038, dated March 18, 1940, in the sum of

\$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(14) Original United States Postal Money Order No. 416045, dated April 12, 1940, in the sum of \$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(15) Original United States Postal Money Order No. 416046, dated April 12, 1940, in the sum of \$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(16) Original United States Postal Money Order No. 416047, purchased at Woodbury, New Jersey, dated April 12, 1940, in the sum of \$100.00, and drawn to the order of A. L. Roberts.

In responding to the above subpoena in each instance where original documents are called for, you may comply by providing certified photostatic copies for the originals in each instance.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, District Judge of the United States, this 23rd day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk.

CHARLES H. CARR,  
U. S. Attorney. [110]



## RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Dec. 26, 1944, and on Dec. 26, 1944, at Los Angeles Post Office, I served it on the within-named Mary D. Briggs, and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,

U. S. Marshal.

By EARL L. BAUGHER,

Deputy.

[Endorsed]: Filed Jan. 4, 1945. [111]

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[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Mrs. Florence Hedge, Post Office Employee,  
Metropolitan Station, 7th and Spring Streets,  
Los Angeles, California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Application for Domestic Money Order No. 983065, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carl-



ton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(2) Application for Domestic Money Order No. 983066, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(3) Application for Domestic Money Order No. 983067, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(4) Application for Domestic Money Order No. 983068, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(5) Application for Domestic Money Order No. 983069, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(6) Application for Domestic Money Order No. 983070, dated December 26, 1940, issued by Station "N" in the sum of \$30.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Claude McColloch, District Judge of the United States, this 12th day of January, A.D. 1945, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,  
Clerk.

By IRWIN HAMES,  
Deputy Clerk.

CHARLES H. CARR,  
U. S. Attorney. [112]

#### RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Jan. 12, 1945, and on Jan. 13, 1945, at Los Angeles, Calif., I served it on the within-named Mrs. Florence Hedge by leaving a copy with the superintendent of the Metropolitan Station Post Office, C. E. Dutton, and left a true copy thereof or a subpena ticket with the person named above.

ROBERT E. CLARK,  
U. S. Marshal.

By EARL L. BAUGHER,  
Deputy.

[Endorsed]: Filed Jan. 16, 1945. [113]

In the District Court of the United States for  
the Southern District of California, Central  
Division

No. 15173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as  
J. M. Danziger, et al,

Defendants.

### MOTION FOR NEW TRIAL

Come now the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, a Corporation, three of the defendants named in the above entitled proceeding and they, and each of them, move the Court to grant them a new trial in the above-styled cause, for the following reasons, to-wit:

#### I.

Because the evidence fails to establish that the parties named in the Bill of Indictment were co-conspirators in fact or in the proposed commission of any crime denounced by the laws of the United States, or at all. [114]

#### II.

Because the decision and conclusions reached by the trial court is contrary to the law and the evidence.

## III.

Because the court's decision against these defendants is against the weight of evidence.

## IV.

Because errors in the reception and exclusion of evidence were prejudicial and of sufficient gravity to require the granting of a new trial.

## V.

Because the trial court was without jurisdiction to try the corporate defendants, above named, without trial by jury and that said trial and proceedings were contrary to the laws securing due process and the equal protection of the laws of the United States and the Constitution of the United States.

## VI.

Because the court was without jurisdiction to proceed with the trial of these defendants after failure to arraign these defendants for almost three years after the filing of the indictment.

## VII.

Because the irregularities in the proceedings in fact deprived these defendants of the opportunity to prepare their defense and procure depositions and the testimony of witnesses indicated and referred to in the affidavits on file preceding the order and direction on the part of the trial court to proceed with the trial.

## VIII.

Because the indictment and the allegations in the respective counts thereof, fail to charge the com-

mission of a public offense cognizable under the laws of the United States. [115]

## SPECIFICATIONS OF THE INSUFFICIENCY OF THE EVIDENCE

The defendants respectfully submit as their specifications of the insufficiency of the evidence, the following:

(a) There is no indication in the record by any competent evidence of the exact nature or purported form of conspiracy; i.e., the arrangement between Trinidad International Petroleum, Limited, and the Great Eastern Natural Gas Company, Inc., was a perfectly legal and valid form of agreement and in no respect was or is proscribed by the laws of the United States.

There is no evidence to show that said agreement was in bad faith or was in its nature and character, an agreement designed or intended to defraud any person or persons. The uncontradicted evidence shows that the Securities Exchange Commission, from the inception of said agreement and for a period of years thereafter, knowing its nature and character, at no time took any steps or measures to exercise any of the measures set forth in Section 20, and the respective sub-division thereof, nor Sections 21 or 22 of the Securities Act of 1933, as amended.

Under the evidence adduced at the trial of these defendants, the conspiracy, if any, would tend to support a charge that the said agreement between



the Great Eastern Natural Gas Company, Inc., and the Trinidad International Petroleum, Limited, was an agreement designed and intended to circumvent the statutes requiring a registration statement to be in effect as to the sale of such securities as provided by Section 5 (a) (2) Securities Act of 1933, 15 U.S.C., Section 77e (a) (2).

(b) There is no competent evidence anywhere in the record to support the contention of counsel for the Government that these defendants moving for a new trial, ever entered into an agreement with anyone, at any time, authorizing the making of the character and the nature of representations testified to by the witness, W. E. Warren. Said witness' testimony, in any [116] event and under all circumstances under the law, should be treated with suspicion, distrust and caution.

(c) The evidence of said W. E. Warren indicates that his actions and those who worked with him in the making of representations to the persons to whom the various sales testified to by him were made, were acts done out of the presence of these defendants and without their knowledge and without their consent and that the said misrepresentation and modes employed by the said Warren and his colleagues outside of the presence and without the knowledge of these defendants under the evidence would tend to support a theory that the crimes, if any, committed by him (Warren) and the persons unknown to these defendants, are crimes denounced by the laws of the states herein-



after indicated but not by any law of the United States:

In the case of Elizabeth T. Parsons, the laws of the State of Pennsylvania; in the case of Florence F. Lawyer, the laws of the State of New York; in the case of Harry F. Pitts, the laws of the State of New York; in the case of F. A. Russell, the laws of the State of Massachusetts; in the case of Adeline B. Skinner, the laws of the State of New Jersey; in the case of E. Barrie Smith, the laws of the State of Connecticut; in the case of Mike Burns, the laws of the State of New York; in the case of J. Arthur Hazelton, the laws of the State of New Jersey; in the case of Harold McCoy, the laws of the State of Ohio.

(d) The Government has wholly failed to present or tender a solitary particle of evidence to show that the properties and shares of stock sold, insofar as the acts of these defendants were concerned, and the representations made by them were not bona fide, in good faith, and not statements of uncontradicted and indisputable facts. The specific transaction and the letter pleaded in the first count, insofar as these defendants are concerned, do not constitute such conduct or acts violative of Section 17-A, [117] Subdivision 1, Securities Act of 1933, or 15 U.S.C. 77q (a) (1) as specified in the indictment, or at all.

(e) There is no evidence from which the court could competently conclude that these defendants or any one of these defendants committed the act

or acts constituting the alleged offense set forth in Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the indictment.

This contention is singularly advanced in behalf of each of these counts individually and separately.

These defendants adopt by reference as grounds in support of this motion all of the objections and exceptions and reasons advanced in their support at all stages of the proceedings heretofore had as reflected by the record.

A. BRIGHAM ROSE,

Attorney for Above-Named  
Defendants.

[Endorsed]: Filed Feb. 6, 1945. [118]

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[Title of District Court and Cause.]

### MOTION IN ARREST OF JUDGMENT

Come now the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, three of the persons named as defendants in the above entitled case, and move that the decision of "Guilty" rendered against them by the trial judge presiding in this court upon the conclusion of the case on the 3rd day of February, 1945, be arrested and no judgment and sentence be imposed thereon for the following reasons:

## I.

That the indictment upon which these defendants were tried and convicted does not state facts sufficient to constitute a crime against the United States. This contention is applicable to each and all of the respective counts, numbers 1 to 17, [119] inclusive. Said grounds are singularly presented in behalf of each of these defendants as to each and every count thereof separately.

## II.

That more than one crime is sought to be charged in the indictment and in the respective counts thereof through the medium of singular and co-related acts selected to base the respective and separate 17 counts set forth in said indictment, notwithstanding that 1 to 17 are duplicatous and that they are disjoined, paradoxical and antithetical each to the other.

## III.

That the said purported offenses set up in these counts in said indictment, are barred by the statute of limitations.

## IV.

That the facts stated in the indictment do not as alleged constitute a crime, and that the court lacks jurisdiction thereover.

Reference is hereby had to each and all of the objections, motions and exceptions before the commencing of the trial and during all the stages thereof up to the point of the rendition of the decision rendered herein.

Wherefore, by reason of the matters and things hereinbefore set forth, defendants pray an order that judgment in this case be arrested as provided by law.

A. BRIGHAM ROSE

Attorney for the Defendants.

[Endorsed]: Filed Feb. 6, 1945. [120]

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At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Saturday the 10th day of February in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge

[Title of Cause.]

This cause coming on for (1) hearing motions on defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. in arrest of judgment and for new trial; (2) sentence of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. on counts 1 to 6, inclusive, and 12 to 17, inclusive; and (3) sentence of defendant Willard Eugene Warren, charged as Warren C. Carter, etc., on count 17; V. P. Lucas, Assistant U. S. Attorney,

appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co.; Ames Peterson, Esq., appearing as counsel for Defendant Warren charged as Warren C. Carter; and John Q. Bybee, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement and presents motion for new trial on behalf of defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co., and argues in support of motions. Attorney Rose makes a statement re motions in arrest of judgment in response to an inquiry by the Court.

Attorney Lucas waives argument on the motions. Motion for new trial and in arrest of judgment as to defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. is denied and exception noted. Attorney Peterson makes a statement in behalf of Defendant Carter.

Attorney Rose makes a statement in behalf of defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co.

The Court pronounces sentence on each of Defendants Carter and Danziger and fines the corporate defendants as follows:

\* \* \* \*

Attorney Rose moves that Defendant Danziger be allowed to remain on his present bond pending appeal. The Court makes a statement and denies the said motion.



District Court of the United States, Southern  
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

WILLARD EUGENE WARREN (chgd. as Warren C. Carter, etc.)

### JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of Secs. 17 (a) (1) & 5 (a) (2), Securities Act of 1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37 of Crim. Code (18 USC 88); Sec. 215 of Crim. Code (18 USC 338).

On this 10th day of February, 1945, came the United States Attorney, and the defendant Willard Eugene Warren (chgd. as Warren C. Carter, etc.) with counsel, Ames Petersen, Esq., appearing in proper person, and

The defendant having been convicted on his plea of guilty to count 17 of the offense charged in the Indictment in the above-entitled cause, to wit: unlawfully conspiring with others in the use of the U. S. mails to employ a scheme or artifice to defraud, etc., in violation of Title 18 USC, Sec. 88, as more fully set forth in said count of the indictment herein, and the defendant having been, now asked whether he has anything to say why judgment should not be pronounced against him, and



no sufficient cause to the contrary being shown or appearing to the Court, It Is by the the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Fifteen (15) months on count 17 of the indictment herein,

Counts 1 to 16, inc. are ordered dismissed on motion of the U. S. Attorney.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

(See amended judg.)

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed)            CLAUDE McCOLLOCH,  
United States District Judge.

Filed this 10th day of February, 1945.

(Signed)    EDMUND L. SMITH  
Clerk.

By E. N. FRANKENBERGER  
Deputy Clerk. [123]

District Court of the United States, Southern  
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

JACOB MORRIS DANZIGER

JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of  
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of  
1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37  
of Crim. Code (18 USC 88); Sec. 215 of Crim.  
Code (18 USC 338).

On this 10th day of February, 1945, came the  
United States Attorney, and the defendant Jacob  
Morris Danziger appearing in proper person, and  
by counsel, A. Brigham Rose, Esq., and,

The defendant having been convicted on finding  
of guilty of the offenses charged in the Indictment  
in the above-entitled cause, to wit: Counts 1 to 6,  
inc.: unlawfully using the U S mails to employ a  
scheme and artifice to defraud, etc. in violation of  
Sec. 17 (a) (1) Securities Act of 1933, Sec. 77q  
(a) (1) Title 15 USC; Counts 12 to 16, inc.: unlaw-  
fully using the U S mails in furtherance of the  
scheme and artifice to defraud, in violation of Title  
18 USC, 338); and Count 17: conspiring with others  
to commit the aforesaid acts in violation of Title  
18 USC, Sec. 88; as more fully set forth in said  
counts of the indictment herein; and the defendant

having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of fifteen (15) months on each of counts 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, 16 and 17, concurrently (total term of imprisonment fifteen (15) months).

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

It Is Further Ordered that bond of the defendant be, and it hereby is, exonerated.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) CLAUDE McCOLLOCH,  
United States District Judge.

Filed this 10th day of February, 1945.

(Signed) EDMUND L. SMITH  
Clerk.

By E. N. FRANKENBERGER,  
Deputy Clerk. [124]

District Court of the United States, Southern  
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

WAKE DEVELOPMENT COMPANY

### JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of  
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of  
1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37  
of Crim. Code (18 USC 88); Sec. 215 of Crim.  
Code 18 USC 338).

On this 10th day of February, 1945, came the  
United States Attorney, and the defendant Wake  
Development Company appearing in proper person,  
and by counsel, A. Brigham Rose, Esq., and,

The defendant having been convicted on finding  
of guilty of the offenses charged in the Indictment  
in the above-entitled cause, to wit: Counts 1 to 6,  
inc.: unlawfully using the U S mails to employ  
a scheme and artifice to defraud, etc. in violation  
of Sec. 17 (a) (1) Securities Act of 1933, Sec. 77q  
(a) (1) Title 15 USC; Counts 12 to 16, inc.: unlaw-  
fully using the U S mails in furtherance of the  
scheme and artifice to defraud, in violation of Title  
18 USC, 338); and Count 17: conspiring with others  
to commit the aforesaid acts in violation of Title  
18 USC, Sec. 88; as more fully set forth in said  
counts of the indictment herein; and the defendant

having been now asked whether it has anything to say why judgment should not be pronounced against it, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, pay unto the United States of America a fine in the sum of Twenty-four Hundred Dollars (\$2400.00,) divided equally in the sum of Two Hundred Dollars (\$200.00) on each of counts 1 to 6, inc. and 12 to 17, inc.

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

(Signed)            CLAUDE McCOLLOCH,  
United States District Judge.

Filed this 10th day of February 1945.

(Signed)    EDMUND L. SMITH  
Clerk.

(By) E. N. FRANKENBERGER  
Deputy Clerk. [125]

District Court of the United States, Southern  
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

TRINIDAD INTERNATIONAL PETROLEUM  
Ltd.,

### JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of  
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of  
1933 (15 USC 77q (a) (1), e (a) (1)); Sec. 37  
of Crim. Code (18 USC 88); Sec. 215 of Crim.  
Code (18 USC 388).

On this 10th day of February, 1945, came the  
United States Attorney, and the defendant Trini-  
day International Petroleum, Ltd., appearing in  
proper person, and by counsel, A. Brigham Rose,  
Esq., and,

The defendant having been convicted on finding  
of guilty of the offenses charged in the Indictment  
in the above-entitled cause, to wit: Counts 1 to 6,  
inc.: unlawfully using the U S mails to employ  
a scheme and artifice to defraud, etc. in violation  
of Sec. 17 (a) (1) Securities Act of 1933, Sec.  
77q (a) (1), Title 15 USC; Counts 12 to 16, inc.;  
unlawfully using the U S mails in furtherance of  
the scheme and artifice to defraud, in violation of  
Title 18 USC, 338); and Count 17: conspiring with  
others to commit the aforesaid acts in violation of



Title 18 USC, Sec. 88; as more fully set forth in said counts of the Indictment herein; and the defendant having been now asked whether it has anything to say why judgment should not be pronounced against it, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, pay unto the United States of America a fine in the sum of Twenty-four Hundred Dollars (\$2400.00), divided equally in the sum of Two Hundred Dollars (\$200.00) on each of counts 1 to 6, inc. and 12 to 17, inc.

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

(Signed)            CLAUDE McCOLLOCH,  
United States District Judge.

Filed this 10th day of February, 1945.

(Signed) EDMUND L. SMITH  
Clerk.

(By) E. N. FRANKENBERGER  
Deputy Clerk. [126]

In the United States Circuit Court of Appeals  
for the Ninth Circuit

No. 15173

UNITED STATES OF AMERICA

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

### NOTICE OF APPEAL

Name and address of appellant: Jacob Morris Danziger, 408 South Spring Street, Los Angeles, California; Trinidad International Petroleum, Ltd., a Nevada corporation, c/o A. Brigham Rose, 205 South Broadway, Los Angeles, California; Wake Development Company, a Delaware corporation, c/o A. Brigham Rose, 205 South Broadway, Los Angeles, California.

Name and address of appellants' attorney: A. Brigham Rose, 205 South Broadway, Los Angeles, California.

Offense: Violations of Secs. 17 (a) (1) and 5 (a) (2), Securities Act of 1933. (15 U.S.C. Section 77q (a) (1), e (a) (1) Section 37 of the Criminal Code (18 U.S.C. 88). Section 215 of the Criminal Code (18 U.S.C. 338). (Securities Act, Mail Fraud and Conspiracy), in seventeen counts.

Date of Judgment: February 10, 1945.

Brief description of judgment or sentence: The judgments were entered by the Trial Judge sitting

without a jury, finding the above [127] named two corporate defendants and the individual defendant guilty on twelve (12) counts of the indictment, to-wit: Counts 1 to 6, and 12 to 17 inclusive. The corporate defendants were each fined Twenty-four Hundred Dollars (\$2400.00), the individual defendant was sentenced to fifteen (15) months imprisonment on seven of the said twelve counts, to run concurrently.

Name of prison where now confined, if not on bail: Los Angeles County Jail, Los Angeles, California.

We, the above-named appellants, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

Pursuant to Rule V, I hereby serve notice that I do not elect to enter upon the service of the sentence pending appeal.

J. M. DANZIGER

Appellant.

A. BRIGHAM ROSE

Attorney for Corporate Defendants

Dated: February 12, 1945.

### GROUND'S OF APPEAL:

1. There was no evidence at the conclusion of the Government's case which could competently be deemed sufficient in law to establish any conspiracy on the part of the defendants to commit the offenses

above specified, and the Court should have dismissed the cause at the close of the Government's case and more especially at the close of the entire case.

2. The motion of the individual defendant to quash and dismiss the indictment for failure to proceed with the arraignment of said defendant for three (3) years after the filing of the indictment, should have been granted.

3. The objection of A. Brigham Rose, counsel for Jacob Morris Danziger, to the order to appear in behalf of the two corporate Defendants should have been sustained.

4. The objection on the part of all defendants to be [128] forced to trial without an opportunity of taking depositions of witnesses whose testimony was material and which, owing to war conditions and the lack of timely notice of the intention of the Government to proceed, should have been sustained and the ruling of the Court was clearly erroneous and prejudicial.

5. The trial court, over objections of the defendants, admitted witnesses to testify to matters that were mostly incompetent and prejudicial.

6. The court erred in admitting, over objections by the defendants, extra judicial statements into the record, which were incompetent and prejudicial.

7. The court erred in permitting secondary evidence pertaining to communication alleged to have been sent to defendants.

8. The court erred in refusing to grant defendants' motion to quash the indictment on the grounds that the same was procured solely on hearsay and incompetent evidence.

9. Defendants were deprived of a fair and impartial trial, guaranteed them by the Constitution.

10. The Court erred in denying defendants' Motion for New Trial.

11. The court erred in denying the defendants' Motion to Arrest the Judgment.

12. The court erred in its decision of overruling the objections of the defendants in admitting each and all of the exhibits offered and presented by the Government in evidence.

Received copy this 12th day of Feb., 1945.

CHARLES H. CARR

U. S. Atty.

By JAMES M. CARTER

Asst. U. S. Atty.

[Endorsed]: Filed Feb. 12, 1945. [129]

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At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 14th day of February in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,  
District Judge

[Title of Cause.]

A. Brigham Rose, Esq., appears before the Court. The Court requests the Court Reporter, H. A. Dewing, who is present, to report these proceedings.

Attorney Rose makes a statement to the Court re order of the Circuit Court of Appeals releasing the defendant Jacob M. Danziger on bail pending appeal and refers to a telegram from the Clerk of the Circuit Court of Appeals to the Clerk of the District Court. The Court states that certified copy of the order of the Circuit Court of Appeals has not yet been received and when received the Court will hear Attorney Rose and Attorney Lucas in the matter. [130]

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[Title of District Court and Cause.]

### BAIL BOND ON APPEAL

Bond No. 824-0018

Know All Men by These Presents:

That we, Jacob Morris Danziger as Principal, and the Northwest Casualty Company, a Washington Corporation, a surety, are jointly and severally held firmly bound unto the United States of America in the sum of Five Thousand and No/100 Dollars (\$5,000.00), for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators and assigns.

The condition of the foregoing obligation is as follows:

Whereas, lately, to-wit, on the 10th day of Feb-



ruary, 1945, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending in said Court in which the United States of America is Plaintiff, and Jacob Morris Danziger was Defendant, judgment and sentence was made, given, rendered and entered against the said Defendant in the above entitled action, whereas he was convicted as charged in the indictment;

Whereas, in said judgment and sentence, so made, given, rendered and entered against said Jacob Morris Danziger, it was ordered and adjudged that the Defendant, having been found guilty of said offense, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the penitentiary type, to be designated by the Attorney General or his Authorized representative for a period of fifteen months on counts 1 to 6 inclusive, and on counts 12 to 17 inclusive, said sentence on each count to run concurrently.

Whereas, the said Jacob Morris Danziger, has filed notice of appeal from the said conviction and from the said judgment and sentence, appealing to the United States Circuit Court of Appeals for the Ninth Circuit; and

Whereas, the said Jacob Morris Danziger, has been admitted to bail pending the decision upon said appeal, in the sum of Five Thousand and No/100 Dollars (\$5,000.00). [131]

Now Therefore, the conditions of this obligation are such that if said Jacob Morris Danziger shall

appear in person, or by his attorney, in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute his appeal; and if the said Jacob Morris Danziger shall abide by and obey Court orders by the said United States Circuit Court of Appeals for the Ninth Circuit, and if the said Jacob Morris Danziger shall surrender himself in execution of said judgment and sentence, if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said Jacob Morris Danziger will appear for trial in the District Court of the United States, in and for the Southern District of California, Central Division, on such day or days as may be appointed for retrial by said District Court, and if the said judgment and sentence against him be reversed, then this obligation shall be null and void; otherwise to remain in full force and effect.

This Recognizance shall be deemed and construed to contain the "express Agreement", summary judgment and execution thereon, mentioned in Rule 13 of the District Court.

J. M. DANZIGER

Principal

[Seal]

NORTHWEST CASUALTY  
COMPANY, a Washington  
Corporation.

By A. W. APPEL

Its Attorney-in-Fact Surety.

Approved As to Form.

V. P. LUCAS

United States Attorney

I hereby certify that I have examined the within bond and that in my opinion the form thereof is correct and surety thereon is qualified.

A. BRIGHAM ROSE

Attorney for Defendant and  
Appellant.

The foregoing bond is approved this 15th day of February, 1945.

CLAUDE McCOLLOCH

United States District Judge.

State of California,  
County of Los Angeles—ss.

On this 15th day of February, A. D. 1945, before me, Marva Weede, a Notary Public in and for the County and State aforesaid, duly commissioned and sworn, personally appeared A. W. Appel, Attorney-in-Fact of the Northwest Casualty Company, a Washington corporation, to me personally known to be the individual and officer described in and who executed the within instrument, and he acknowledged the same, and being by me duly sworn, deposes and says that he is the said officer of the Company aforesaid, and the seal affixed to the within instrument is the corporate seal of said Company, and that the said corporate seal and his signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation.

I<sup>n</sup> Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City of Los Angeles, County of Los Angeles, the day and year first above written.

MARVA WEEDE

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires February 3, 1946.

[Endorsed]: Filed Feb. 15, 1945. [132]

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At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Monday, the 19th day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,  
District Judge.

[Title of Cause.]

This cause coming on for modification of sentence of the defendant Willard Eugene Warren, charged in the indictment as Warren C. Carter; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; Ames Peterson, Esq., appearing for the defendant Warren (Carter); H. A. Dewing, Court Reporter, being present and reporting the proceedings; the said named defend-

ant being present in Court in custody: the Court orders the original judgment and commitment, entered herein on February 10, 1945, as to said defendant Warren, amended and modified as follows: [133]

\* \* \* \*

District Court of the United States, Southern District of California, Central Division

No. 15,173

Criminal Indictment in 17 counts for violation of Secs. 17(a)(1) & 5(a)(2), Securities Act of 1933 (15 U.S.C. 77q(a)(1), e(a)(1); Sec. 37 of Crim. Code (18 U.S.C. 88); Sec. 215 of Crim. Code (18 U.S.C. 338).

UNITED STATES OF AMERICA,

vs.

WILLARD EUGENE WARREN (chgd. as Warren C. Carter, etc.)

AMENDED AND MODIFIED JUDGMENT  
AND COMMITMENT

On this 19th day of February, 1945, came the United States Attorney, and the defendant Willard Eugene Warren (chgd. as Warren C. Carter, etc.) appearing in proper person, and with counsel, Ames Peterson, Esq., and,

The defendant having been convicted on his



plea of guilty to count 17 of the offense charged in the Indictment in the above-entitled cause, to wit: unlawfully conspiring with others in the use of the U. S. mails to employ a scheme and artifice to defraud, etc., in violation of Title 18 U.S.C., Sec. 88, as more fully set forth in said count of the indictment herein, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Sixty (60) days from date hereof on count 17 of the indictment herein.

Counts 1 to 16, inc. are ordered dismissed on motion of the U. S. Attorney.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

It Is Further Ordered that the judgment and commitment heretofore entered herein on February 10, 1945, be, and the same hereby is vacated and set aside.

It Is Further Ordered that the Clerk deliver a certified copy of this amended and modified judgment and commitment to the United States Mar-



shal or other qualified officer and that the same shall serve as the commitment herein.

(Signed)            CLAUDE McCOLLOCH,  
United States District Judge.

Filed this 19th day of February, 1945.

(Signed)            EDMUND L. SMITH,  
Clerk.

By E. N. FRANKENBERGER,  
Deputy Clerk. [134]

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[Title of District Court and Cause.]

### STIPULATION

It Is Hereby Stipulated by and between counsel for the respective parties herein that the defendants and appellants, to-wit: Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, may have up to and including the 10th day of May, 1945, within which to present for settlement and allowance the proposed bill of exceptions herein and the assignment of errors, and that the time for such presentation, settlement and allowance may be enlarged and extended to said date by Order

of the Court herein, and that the United States of America may have up to and including May 30, 1945, within which to serve and file proposed amendments to the bill of exceptions herein, and that the time within which the appellants are required to file the record and docket the cause in the United States Circuit Court of Appeals for the [135] Ninth Circuit, may be enlarged and extended up to and including sixty (60) days after the allowance and settlement of the bill of exceptions herein.

CHARLES H. CARR,

United States Attorney.

JAMES M. CARTER and

V. P. LUCAS,

Assistant U. S. Attorneys.

By JAMES M. CARTER,

Attorneys for Plaintiff.

A. BRIGHAM ROSE,

Attorney for Appellants.

[Endorsed]: Filed March 3, 1945. [136]

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[Title of District Court and Cause.]

ORDER EXTENDING TIME WITHIN WHICH  
TO PREPARE, SERVE AND FILE TRAN-  
SCRIPT, ASSIGNMENT OF ERRORS, AND  
BILL OF EXCEPTIONS

Good cause appearing and upon motion of counsel for the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International

Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, it is hereby

Ordered, that the said defendants may have up to and including the 10th day of May, 1945, within which to serve, lodge, file and present for allowance their proposed transcript and Bill of Exceptions and Assignment of Errors, and the appellee, United States of America, have up to and including the 30th day of May, 1945, within which to appear and serve any proposed amendments to the proposed Bill of Exceptions, and that the appellants herein cause to be docketed with the Clerk of the Circuit Court of Appeals for the Ninth Circuit, the said records within sixty (60) days after allowance and settlement of the Bill of Exceptions, etc., herein. [137]

Dated: March 5th, 1945.

CLAUDE McCOLLOCH,

United States District Judge of the Southern District of California.

[Endorsed]: Filed March 3, 1945. [138]

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[Title of District Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF  
RECORD ON APPEAL

To the Clerk of the Above-Entitled Court:

Please prepare and certify a transcript of record on appeal to the United States Circuit Court of

Appeals for the Ninth Circuit in the above-entitled action, and include therein the following papers and proceedings. You may eliminate all captions, and other introductory matters so far as possible.

1. Indictment returned September 30, 1941 (copy of which is presented herewith).

2. Pleas of all of the Defendants.

3. Orders of the Court at the times when the case was called for trial.

4. All Praecipes for Subpoenas, together with Subpoenas and dates thereof of Witnesses for the Government.

5. Motion to Dismiss the Indictment for Want of Prosecution (copy of which is submitted herewith).

6. The Minutes of November 20, 1944.

7. The Minutes of January 16, 1945, January 17, 1945, January 18, 1945, January 19, 1945, January 20, 1945, January 23, 1945, January 24, 1945, January 25, 1945, January 26, 1945, January 29, 1945, January 30, 1945, January 31, 1945, February 1, 1945, February 2, 1945, and February 3, 1945.

8. The Decision of the Court on February 10, 1945.

9. The Record of Sentences on the part of all Defendants dated February 10, 1945, and February 19, 1945.

10. The Motion for New Trial and Motion in Arrest of Judgment and the Order Denying the Same (copies of which are submitted herewith).

11. Judgment and Sentence of the Court.

12. Bill of Exceptions and Orders Approving Same.

13. All Stipulations and Orders of the Court extending time for filing of the Bill of Exceptions (Copy of Stipulation and Order are submitted herewith).

14. Notice of Appeal and grounds of appeal (copy of which is submitted herewith).

15. The Assignment of Errors, Bail and Cost Bond on Appeal.

16. Stipulation re Consolidating Record for All Defendants (copy of which is submitted herewith).

17. Stipulation re Omission in Printed Transcript of Captions (copy of which is submitted herewith).

18. Stipulation re Assignment of Errors on Appeal and for the Transmittal of the Exhibits to the Circuit Court (copies of which are submitted herewith).

19. All Orders based on said Stipulations.

20. The Summons and Citation to the Corporate Defendants and the Return thereon.

21. Certified and engross Bill of Exceptions filed herein.

22. Assignment of Errors filed herein.

23. Stipulation and Order directing Transmission of Exhibits.

24. Copy of this Praeipe.

Dated: This 10th day of May, 1945.

A. BRIGHAM ROSE,  
Attorney for Defendants and  
Appellants.

Received copy of the within Praeipe this 10th day of May, 1945.

V. P. LUCAS,  
Attorney for U. S.

[Endorsed]: Filed May 10, 1945. [140]

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[Title of District Court and Cause.]

STIPULATION RE CONSOLIDATED RECORD FOR ALL APPELLANTS

It Is Hereby Stipulated by and between the United States of America by Charles H. Carr, United States Attorney; by V. P. Lucas, Assistant United States Attorney; for the Plaintiffs; and A. Brigham Rose, Attorney for the Defendants, as follows:

Whereas, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake De-



velopment Co., a Delaware corporation, were indicted jointly for the violations as set forth in the Indictment herein and were placed on trial jointly being tried at the same time before the same Court; and

Whereas, the above-named Defendants were each convicted of the said charges and were each sentenced on the 10th day of February, 1945, in punishment of said offenses; and

Whereas, each of said Defendants have served and filed a joint notice of Appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the above-mentioned convictions and sentences; and

Whereas, said Appeals of the said Defendants raised many questions which are identical and the questions to be raised on the Appeals are in all respects similar and may be conveniently [141] determined upon the same Record, Transcript and Bill of Exceptions.

Now, Therefore, it is hereby agreed, as follows:

The Appeals of Jacob Morris Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake Development Co., a Delaware corporation, may and shall be made, prosecuted and decided on a single and consolidated Record, Transcript and Bill of Exceptions, which said consolidated Record, Transcript and Bill of Exceptions may and shall be used in all of said Appeals, and that the same may be heard thereon in the same

manner as if records have been filed by all three appellants.

CHAS. H. CARR,

United States Attorney; by

V. P. LUCAS,

Assistant United States At-  
torney,

For the Plaintiff.

A. BRIGHAM ROSE,

For the Defendants.

The above Stipulation is approved and it is Ordered that the Appeals of Jacob Morris Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake Development Co., a Delaware corporation, may and shall be made, prosecuted and decided on a single and consolidated Record, Transcript and Bill of Exceptions which said consolidated Record, Transcript and Bill of Exceptions may and shall be used in behalf of all Appellants, as if the record had been filed by the respective Appellants in the several cases. Said consolidated Record, Transcript and Bill of Exceptions may present and preserve all Assignments of Errors and Exceptions by or on behalf of any of the Appellants.

-----,

United States District Judge.

[Endorsed]: Filed Nov. 14, 1945. [142]

[Title of District Court and Cause.]

STIPULATION RE OMISSION IN PRINTED  
TRANSCRIPT OF CAPTIONS

It Is Hereby Stipulated by and between counsel for the respective parties hereto, that in the preparation of the printed transcript of the Record on Appeal in this proceeding, the captions at the top of all pleadings indicating the name of the Court, the name of the cause and parties, and docket number, may be omitted.

Dated: This 9th day of November, 1945.

CHARLES H. CARR,  
United States Attorney; by

V. P. LUCAS,  
Assistant United States At-  
torney,  
For the Plaintiff.

A. BRIGHAM ROSE,  
For the Defendants.

It Is So Ordered.

Dated: This ..... day of ....., 1945.

.....,  
United States District Judge.

[Endorsed]: Filed Nov. 14, 1945. [143]

United States District Court

Claude McColloch

Judge

(Copy)

Zone 5, Portland, Oregon

Airmail

November 13, 1945

Mr. E. N. Frankenberger,  
Deputy Clerk,  
United States District Court,  
Los Angeles 12, California.

Re: U. S. A. vs. Jacob M. Danizger, et  
al., No. 15,173—Crim.

Dear Mr. Frankenberger:

I am returning to you the Stipulations which you transmitted with your letter of November 9th, unsigned. I am doing this mainly for the reason that it seems to me that the matters covered by the Stipulations should properly be presented to the Appellate Court. That would be the practice with us on an appeal from our court. Please file the original of this letter with the other papers in the case. Copies for yourself and the attorneys are enclosed.

Very truly yours,

/s/ CLAUDE MCCOLLOCH.

3 CC enclosed.

[Endorsed]: Filed Nov. 14, 1945. [144]

[Title of District Court and Cause.]

### CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 144, inclusive, contain full, true and correct copies of Indictment; Minute Order Entered November 20, 1944; Motion to Dismiss Indictment for Want of Prosecution, etc.; Minute Order Entered December 11, 1944; Order for Summons and Citation to Issue to Corporations; Minute Orders Entered January 6 and January 10, 1945; Summons and Citation to Trinidad International Petroleum, Ltd., with return of service; Summons and Citation to Wake Development Company with return of service; Minute Orders Entered January 16, 17, 18, 19, 20, 23, 24, 25, 26, 29, 30, 31, February 1, 2, and 3, 1945; United States Subpoenas and Subpoenas Duces Tecum with returns of service thereon; Motion for New Trial; Motion in Arrest of Judgment; Minute Order Entered February 10, 1945; Judgment and Commitment of defendant Willard Eugene Warren; Judgment and Commitment of defendant Jacob Morris Danziger; Judgments of Defendants Wake Development Company and Trinidad International Petroleum, Ltd.; Notice of Appeal; Minute Order Entered February 14, 1945; Bail Bond on Appeal; Minute Order Entered February 19, 1945; Amended Judgment and Commitment as to defendant Willard Eugene Warren; Stipulation re

Settlement of Bill of Exceptions; Order Extending Time Within Which to Prepare, Serve and File Transcript, Assignment of Errors and Bill of Exceptions; Praeceptum for Transcript of Record on Appeal; Stipulation re Consolidated Record for All Appellants; Stipulation re Omission in Printed Transcript of Captions and Letter Dated November 13, 1945, from Judge Claude McCulloch which, together with Original Assignment of Errors and Original Reporter's Transcript and Exhibits certified by the Trial Judge as the Bill of Exceptions, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$33.70 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 4th day of December, 1945.

[Seal]

EDMUND L. SMITH,  
Clerk.

By THEODORE HOCKE,  
Chief Deputy Clerk.



In the District Court of the United States for the  
Southern District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as J.  
M. Danziger, et al.,

Defendants.

### ASSIGNMENT OF ERRORS

Now come the defendants Jacob Morris Danziger, also known as J. M. Danziger; Trinidad International Petroleum, Limited, a corporation, and Wake Development Company, Inc., a corporation, by their attorney, and say in the proceeding herein and in the orders and judgments entered, there are manifest errors, to-wit:

#### ASSIGNMENT OF ERROR No. 1

The Court erred in denying the motion made on behalf of the defendant J. M. Danziger to dismiss the indictment for want of prosecution.

#### ASSIGNMENT OF ERROR No. 2

The Court erred in denying the motion of the defendants herein for arrest of judgment.

#### ASSIGNMENT OF ERROR No. 3

The Court erred in denying the motion made by the defendants herein for a new trial. [1\*]

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\*Page numbering appearing at foot of page of original certified Transcript of Record.

## ASSIGNMENT OF ERROR No. 4

The Court erred in denying the motions of the defendants to quash the return of service on the corporate defendants as follows:

The first motion that I submit to your Honor is a motion to quash the return of service of the so-called summons and citation addressed against the Trinidad International Petroleum, Ltd., a Nevada corporation, named as a defendant in this indictment, upon the ground that it affirmatively appears by the records and proceedings and the proofs herein that no arraignment of said defendant was had as provided by law. That is, the only proof in support of the arraignment culminating in the plea, ostensibly, in behalf of said defendant, is the return of a deputy marshal of this district asserting that he left a certain citation with a stenographer in the law offices of J. M. Danziger.

I submit that this is not such service as is provided by statute or by the law; and while I recognize that this court, where a defendant regularly appearing before it stands mute and declines to plea, may very well, in fact the law provides that a plea of not guilty be interposed in behalf of the mute defendant who is properly before the court, I have been placed in the position of representing this defendant by a direction of the court.

Your Honor, undoubtedly, I recognize has the right to appoint counsel who are admitted as attorneys to practice law before this court to represent defendants who are before this court who are not represented by counsel; but I think I

would be remiss in my responsibilities and duties in this proceeding if I were not to [2] seriously and urgently present the motion that I am now making in behalf of this defendant.

Now, your Honor, may it be deemed, in behalf of expediency, that I am directing the same motion on the same ground and on each of the conditions submitted to the court in my motion, a similar motion in behalf of the corporate defendant Wake Development Company, a Delaware corporation.

#### ASSIGNMENT OF ERROR No. 5

The Court erred in denying the motion to quash the Indictment on the grounds that same had been procured solely on hearsay, as follows:

Mr. Rose: Now, your Honor, going over this indictment here I have been rather in a quandary in certain respects to determine, in part, at least the theory of the government's case. Your Honor will recall toward the closing phases of this case, just within a few days before the end of last week, your Honor addressed to opposing counsel a question concerning his theory of this conspiracy. On other occasions your Honor has asked him when he thought this conspiracy formed.

As your Honor observes from the record before you, I find this to be the case: The undisputed evidence in this case shows that the indictment in this case in the various counts were procured solely upon the testimony of Mr. Mainland and Miss Skinner, as I remember it, who was pres-

ent in court here. As your Honor remembers, Miss Skinner testified that this Mr. Warren approached her and told her something about an oil speculation in New Mexico. Then you have the hearsay of Mr. Mainland. In other words, the indictment in this case was not brought about by the valuable testimony of this paragon of virtue, Mr. Warren, who has come forward [3] here, after his apprehension, but it was in the main based upon surmise, speculation, and conjecture.

I was placed in the peculiar position in this case, your Honor, having been brought into it some three years after the indictment was returned and filed, and having taken the legal position that was addressed to your Honor in the incipency of your connection with this matter, I was placed in the position of opposing any proceedings on the theory that the court was without jurisdiction after this long delay, and in view of the intervening circumstances to proceed at all as against the defendant Mr. Danziger. At that time I was not appearing on behalf of the corporate defendants. Having assumed that position, I could not, paradoxically, your Honor, interpose any plea in the form of a dilatory plea. But, I submit that it now appears, at the conclusion of the government's case, that this indictment was procured contrary to all legal concepts and principles, namely, the various and several counts of this indictment could not, possibly, according to established principles of law, be properly returned on this hearsay and the flimsy testimony of Miss Skinner.

In the normal course of events, had this case progressed along the usual or normal lines, namely, the defendant is brought in shortly after his indictment and is required to join issue, I submit to your Honor I would have made a motion to quash the indictment on the ground that it was procured illegally and contrary to the laws of the United States. It was procured purely on hearsay and on unsubstantial evidence to warrant and support the indictment.

For that reason, now that these facts appear evident at the conclusion of the government's case, I address to your Honor a motion to quash the indictment upon the grounds that the same was procured contrary to the laws of the United States, in violation of the constitutional provisos, namely, due process, the equal protections of the law and the statutes in cases concerning the subject [4] of the requisite evidence and character of evidence that is essentially required in order to vote an indictment against an accused and put him to trial.

The Court: Mr. Lucas, I will hear you.

Mr. Lucas: I don't care to be heard unless your Honor wants me to be heard. First, the government's theory is that a motion to quash the indictment, as announced and argued by counsel for the defendant, raises no substantial question that this court can pass upon at this time. All matters occurring before the grand jury, and anything antecedent to the indictment, must be raised either at the time of plea or prior thereto. The question



of who testified before the grand jury and who didn't are all questions that cannot be raised.

The Court: At all

Mr. Lucas: At this time. And if raised must be raised in a different manner than it is here attempted to be raised.

The Court: What manner?

Mr. Lucas: The mere fact that the witness has testified here, Mr. Mainland and Miss Skinner, that they were persons who testified before the grand jury, does not work a constitutional defect in any manner, or deprive this defendant or any of the defendants of their constitutional rights. That is all that there is before this court, I think, some few words by Mr. Mainland, under cross-examination by counsel, and some few words by Miss Skinner, as to her testimony before the grand jury.

#### ASSIGNMENT OF ERROR No. 6

The Court erred in denying the defendant's motions made at the close of the plaintiff's case and renewed at the close of all of the evidence introduced in said case to dismiss and quash the case upon the grounds that the evidence was insufficient to show [5] the commission of the offenses alleged in the indictment—which motions were presented as follows:

Mr. Rose: Your Honor, I have made a little outline of the various counts of this indictment here. Now, I find, for example, in the first count that the defendants are jointly charged as having devised and intended to devise a scheme to cheat a class of persons, and then they refer to the stock-



holders of the Great Eastern Gas Company, and then of several mining companies, naming them. Now, they proceed to outline the fraudulent pretenses, promises and representations concerning the Trinidad International Petroleum securities, its operations and personnel was fraudulent. Then they state that among the scheme outlined was to misrepresent that the stock was listed and traded on the Stock Exchange in London.

While I am on this one point, I will make my observation; that they haven't even proved or pretended to prove that the stock, in fact, was not listed or traded on the Stock Exchange of London. And in that connection, I submit, your Honor, that there isn't a scintilla of proof that Mr. Danziger or the two corporate defendants ever represented to any one, either by way of voice or by way of a document, that the stocks were in fact listed.

We, of course, know from Mr. Warren, Carter, and what-have-you, that he told some of these people that the stock was listed. But he doesn't claim or pretend to claim that he was ever told by any of the other defendants on trial that he was directed to make any such representation.

So we have before us what? We have, firstly, the failure on the part of the prosecution to establish that the stock wasn't, in fact, listed. In so far as the corporate defendants are concerned in each and every instance there is a letter on file that the stock was never listed. So, so far as any representation on the part of the defendants on trial, there is an utter failure to prove. [6]

The Court: What is the letter you referred to?

Mr. Rose: Your Honor will remember in this group of letters that was sent on to some of these stockholders here, the letter in each instance specifically declares that the stock was not listed. Does your Honor remember that?

The Court: If you say it is there, why——

Mr. Rose: Yes, your Honor, in every instance, so far as the defendants on trial are concerned, the unqualified proof here is that they were informed that the T.I.P. stock has never been listed on any stock exchange, and the only time that it has ever been traded has been over the counter, so to speak, in the United States and England. That is the state of the record.

Now, the nebulous thing, as I remember it, in which this Mr. Warren was inclined to create an inference, was that, your Honor will remember, he said that while Mr. Danziger was in England he sent him a newspaper showing stock market quotations, and he wrote to him, "Well, you know how to use this." That is the extent to which this gentleman went. And I don't have to argue that; I am not going to try to argue, your Honor, what inference to draw from any of these matters. I just wanted to be sure that I present to your Honor, as I discuss these points, everything that is in the record. I thought it my duty to call your Honor's attention to that nebulous little thing that is there.

Now, then, so far as the defendants on trial and the charge in the indictment that a scheme was devised, you find from the evidence here, even revers-

ing the process that the law imposes upon us in a judicial proceeding, namely, to draw the inferences in favor of innocence and against the criminal intent, you find, one, that there is no evidence that in this alleged conspiracy prior to the leaving for England, and contrary to opposing counsel's contention that this scheme was planned long before Mr. Danziger left for England, you find neither in cross nor direct testimony on the [7] part of Mr. Warren that there was any scheme or discussion respecting a representation that was to be made or ever considered to any prospective purchaser of stock that the stock was listed on the stock exchange, and, yet, this is listed as a part of the scheme, and you have no less representation to the court by Mr. Lucas that this so-called scheme and conspiracy, concerning which we have heard so much from him, originated prior to Mr. Danziger's departure for England.

Now, then, the second item, in line, in this so-called scheme was that Danziger was to receive the money for the securities or cause the corporation to receive the money and property sent in by the persons to be defrauded, and then distribute a part of it to defendants.

Now, what is the record in respect to the so-called scheme and conspiracy in 1935, prior to the departure of Mr. Danziger? The record shows there was an agreement entered into which agreement must, presumptively, be deemed to have been according to law and not fraudulent. It wasn't an agreement between these two defendants it was an agreement between the Great Eastern Gas Com-

pany, which they themselves have introduced, in writing. The agreement provided, and the evidence shows that the agreement was made between a brokerage firm and the Great Eastern Company in Delaware, in which 20,000 shares of the personally owned shares of stock of Wake Development Company were deposited in escrow, and when Mr. Danziger left for England the proceeds were to be handled in this escrow. So, contrary to the charge in this indictment, there never was an arrangement, so far as the undisputed and uncontradicted evidence up to this point in this case shows, that there was ever any such scheme as they outline here.

In other words, there was a valid agreement not between these defendants, but between the Great Eastern Company and its duly authorized representatives, not the co-defendants. The agreement, presumptively, they have introduced, and offered no evidence to the [8] contrary, that it was entered into in good faith; there was an escrow made, and this escrow company in Delaware was delegated, and under the arrangements then existing and continuing to exist until long after the departure of Mr. Danziger to England this Delaware Company this trust company, were to handle the proceeds from this particular sale of Wake Development Company personally owned stock. That is the state of the record in regard to the second so-called false pretense and scheme, which is controverted by their own evidence. They have introduced the agreement, they have developed in their testimony,



through Mr. Warren, that an agreement was entered into not between Carter or the persons that they mention—and, incidentally, the government has left me in a quandary, I don't know how your Honor feels about it,—they name W. W. Wright and they name some others, they don't mention the Great Eastern Company or Dube or any of these persons, who were the parties to this agreement, and we don't know yet what omnibus fishing expedition they had in mind at that time when they politely voted the seventeen-count indictment. So I point out to your Honor that part of the scheme fails of any proof.

Now, I have noted the third. They say part of the scheme was to use fictitious names by persons calling on persons to be defrauded, and give them fictitious addresses. What is the state of the record, as I recall it, on that part of the scheme? Mr. Warren testified here that the first time he resorted to the use of fictitious names was after the Pierce transaction which occurred after the departure of Mr. Danziger to London, and your Honor will remember that exhibit that Mr. Warren admitted signing, that letter in which he wrote to Mr. Danziger protesting against the prompt cancellation of this whole deal. The undisputed evidence by these cablegrams from England, and the cable sent by Warren, incidentally, your Honor will remember it is in evidence, was begging that the cancellation of this whole deal be set aside, and Mr. Warren who at [9] that time tells us he was neutral, sends over to England that writing in the letter saying

there was no necessity for any crooked work, this sale could have been made clean and there wouldn't have been any complaint, there could have been \$100,000 sold, and it shows what a warped mind will do.

I wonder what a warped mind is according to the mental processes of this individual?

But, in any event, he himself admits he was pure at that time, he admits it. So where is there any discussion——

The Court: You say he was neutral.

Mr. Rose: He says he was neutral. He said he left it neutral. I don't know what that means. But you notice he outlines there was no necessity in connection with \$100,000 of this stock that could be sold to one person, Mrs. Pierce, of doing it in anything but a clean manner. What does the state of the record show? The state of the record shows that at the first sign of any improper conduct Mr. Danziger repudiates and cancels the whole agreement. There it is at an end. The evidentiary record, the documentary record, clearly shows that. There can't be any argument about that, and he himself says that he didn't resort to the use of any fictitious names until 1936. So where have we anywhere in the record that segment of this so-called arch conspiracy?

Now, I made a note as to the fourth part of this scheme. It says J. M. Danziger and the corporations would pretend they did not know the persons who had called on persons when they made inquiry of the company.



Now, my recollection is that it is Exhibit O, Defendant's Exhibit O, which Warren acknowledges sending, which shows that he wrote in November after Danziger had been in London for quite a while to Faulkner in the Wake Development Company, in which he begs to carry on and states that it will all be clean and there won't be any misrepresentations, and so forth. [10]

Now, then, where is there any evidence, if opposing counsel's theory is to be given any consideration, that this conspiracy was something that occurred at the time he claims it occurred or at any other time? Where was there any agreement that these persons should use fictitious names, and that they should use false addresses and so forth? The fact of the matter is, as the record evidence shows, letters went out and they have introduced that, before and after Mr. Danziger's departure to England, on the letterhead of the Trinidad Corporation, outlining that an agreement had been entered into between Wake and the Trinidad Company, that is, between the Trinidad Company and the Great Eastern Company, in which they were to be given certain rights. The names of the personnel of the Trinidad Company are all outlined. In fact, there is a succinct declaration of their background antecedents and history, and their addresses, and, mind you, the escrow arrangement with the Commonwealth Trust Company and the Great Eastern literature certainly gave their addresses, and even Warren who was so anxious to assist us here admits that he didn't use any fictitious name prior

to 1936. So, where is there any evidence, be it so nebulous, that supports this fourth segment of the so-called scheme that counsel says occurred in '35?

Now, the fifth segment of this scheme. Your Honor, I will just show you how inconsistent these people are, and will show you they have just gone out with a bucket shop fire and show you you can't depend on them, they don't know themselves when this so-called conspiracy is presumed to have started. They say, for example, that a part of the scheme was for J. M. Danziger to use fictitious names in transmitting the funds to the other defendants. Now, in that connection, your Honor, what is the state of the record?

The state of the record is that the original plan, the Great Eastern Company received two-thirds of the proceeds, the [11] escrow arrangement with the Commonwealth Trust Company, received two-thirds of the sale, that was the arrangement made preceding the going on of Mr. Danziger to England. Now, where is there any evidence that an agreement was entered into to transmit the funds? In 1940, and if my memory serves me, somewheres in December, 1940, there appears to have been another transmittal of some postal money orders and Western Union money orders to a man named Carlton. Now, they were transmitted, as your Honor remembers, under the name of "A. Levy" and in one instance "T. Mack." Now, that is something that occurred in 1940 to a man named Carlton.

Up to a change in the position taken by Warren,

he testified, as I remember, that he never used the name Carlton prior to 1940. He may have used it in the latter part of '39. Now, there isn't a scintilla of evidence to show, even by the testimony of Warren, or Carter, or what-have-you, that he ever told anybody that he, Carter, Warren, or whatever he is, ever represented that he was Carlton to any of the defendants on trial.

So your Honor will see, as I pointed out to you, that this indictment and a lot of the allegations that are set forth in here, is a conglomeration of bits of surmise and conjecture.

I have no quarrel with Mr. Mainland; I think that his intentions are the highest and most honorable; I commend the SEC for their work, they have done a very splendid work; but Mr. Mainland, in his zeal to follow through on this investigation into this corporation, as the record reflects, your Honor, ascertained that these transmittals of the postal money orders to Carlton, and the Western Union, were made, by reason of the examination here, as late as June, 1941. So that is the first time that Mr. Mainland in his check-up of these transactions finds out the bald fact that in 1940, in December, or thereabouts, a transmittal of money was made to Carlton in New York with the name of "A. Levy" in most of the instances, and in one instance the name of "T. Mack." [12]

So that fifth part of the scheme, if it was a scheme, couldn't possibly have come into being until 1940. The first time that any one who appeared before the grand jury—and it can't be Miss

Skinner—that submitted that valuable piece of evidence to them, was Mr. Mainland's evidence or surmise as to what this so-called plan or scheme was, acquired by him in 1941, in June.

Now, that is the record in connection with that phase of the case. If I haven't made myself clear, your Honor, your Honor must keep in mind the '35 agreement was in escrow between the Great Eastern, and they were in agreement to receive the money, and they weren't to receive it in the name of Carlton; and I don't see the significance, although the prosecutors frequently attach great importance to the fact that a transmittal was made in the name of "Levy," or let it be Jones, or what-have-you; they don't bother to find out why or how or the facts about it, but to them that is very significant.

I know that your Honor doesn't share that view, from a number of observations your Honor has made in the course of these proceedings, whether a person of that name exists or not.

Now, the sixth part of the scheme as I have noted here from my analysis of the indictment is that part of it that Danziger, Wake, and the Trinidad Company were to write to persons to be defrauded—no, when replying to persons, incidentally, not that had been already defrauded, but they use the language "to be defrauded"—we know what that means from Hamlet—"would secretly submit such letters to the defendants who had called on them for the advice of such other defendants respecting the reply to be made."

Now, we have all the letters that reputedly were



sent. We have them here twice, in duplicate, that is, the carbon copies, and we have the originals in many cases which were introduced by the stipulation, Mr. Mainland asserting that he received it from the addressee, and they are in evidence. Now, here again, according [13] to the documentary evidence, we have no evidence that there was ever such agreement whatever. There is no discussion. Mr. Warren in his testimony outlining in his way the discussion of how this thing was to be handled has gone in at great length about this, and we find, apropos of opposing counsel's representation to your Honor that this scheme occurred in '35, we find here by undisputed proof that there wasn't any such program at all. The program was that \$20,000 of Wake's privately owned stock in the Trinidad Company was to be and was pursuant to an agreement deposited with a trust company in Delaware, by reason of an agreement in writing between the Great Eastern Gas Company and the Trinidad Company; hence, there isn't anything to this at all. If Carter or Warren or whatever he is wrote to Mrs. Faulkner in Los Angeles during the absence of Mr. Danziger in England, and it is not disputed he was there from I think September '35 to July '37, if any such arrangement was made that he was to get a copy of any letter, that was an arrangement made which is left in the metaphysical realm, for the reason that there is nothing definite about it to indicate when that arrangement was made, and between whom; and of what criminal significance is it that a copy of any letters sent to any

inquirer was sent to the Great Eastern or its representative? The evidence as developed up to yesterday shows that the Great Eastern still had an office in 1940 in New York City in the Longacre Building, to which communications were addressed.

So, your Honor will see that here, again, counsel for the government is not sure of his ground at all when he told your Honor this conspiracy was formed, the one they claim culminating in this indictment, supposed to have been formed in 1935. And we know there wasn't any such arrangement whatsoever made, according to the oral testimony or any of the proofs in this record. So much for the sixth.

Now, the seventh item here says that part of the scheme [14] was that J. M. Danziger and Wake and T.I.P. should appear to be reluctant to take the money and property of the persons to be defrauded.

Now, when did this phase of this jumpy scheme take place? I am in a quandary to know where the government contends that there is any evidence that that was part of the scheme. It is true that in two instances, as I recall, I think one of them is a Mrs. Lawyer, there are three letters that go to her in which the Wake Development Company turned her down, they tell her that they don't want to make the deal. Now, those transactions are in '39 and possibly in '40, I am not certain without examining them, but I am quite sure that those particular transactions in which the government has introduced correspondence shows that the Wake



Company didn't advise, indicate to the persons making the inquiry, that they had any inclination or disposition to make the deal. So, when does this stage of the conspiracy that opposing counsel tells your Honor was generated in 1935, when does this come into being, and between whom?

Now, as I pointed out, I am not sure of the language, but I remember in the case of *People v. Blackman*, it is either in 124 or 127 Cal., one of our Supreme Court decisions, it stands out in my mind, that case in the discussion of documentary evidence points out that you do not introduce a document into evidence for the purpose of proving, in the absence of specific proof, that it doesn't mean what it says. In other words, of course, I can establish that a document is a forgery; but I would proceed to prove that the document is not what it is by evidence that it is a forgery. But if I offered in evidence to your Honor in this case a document, and if by that document I seek to prove criminal intent or purpose, I can't introduce that document and then merely say that in my opinion that letter is just a sham, it is a phony.

Here are a series of communications going over the course [15] of a year, and the company says, "If you think this is anything but a highly speculative stock, don't buy it. We advise you against it."

Now, when did that part of the scheme, so-called, come into being? The letters that they refer to are letters in '39 and '40, so could that possibly have been the part of the conspiracy that opposing

counsel tells your Honor occurred in '35, or for that matter in '37?

Those are the only two occasions when Mr. Warren, Carter, and so forth, ever met Mr. Danziger.

Incidentally, in passing, while I am thinking about this thing, what does it show your Honor? It shows he saw him a few times before he left for England in '35. He never even so much as had lunch with him or went out together. Can you imagine a couple of henchmen of his ilk, conspirators, who don't even go out and have a cup of coffee together or something? And then when does he meet him again? Twice or three times in '37 upon his return from England, at which time he tells him that he has been convicted in Illinois.

Now, your Honor, the next item that I notice that is a segment of the indictment is the contention that part of the scheme was to use the mails and telephone and telegraph in dealing with the persons to be defrauded, and with each other.

Now, that is a rather vague and ephemeral allegation. We do know that the agreement which the government has introduced in evidence provided that the Great Eastern Gas Company were to circularize their stockholders, advise them about the arrangement made with the Trinidad Company, and offer to them a right.

Now, as I pointed out, no evidence was even sought to be presented that that agreement was not a bona fide and legitimate agreement between Great Eastern and Trinidad. Now, the use of that mail and the exercise of that right couldn't possibly be

given any criminal significance. So this generalization is meaningless. [16] As far as the telephone is concerned, nobody has come forward and said that Mr. Danziger or any representative of Trinidad or the Wake Development Company ever advised any salesman, "You go to a telephone and you tell that person a pack of fabrications."

We know that the telephone was resorted to surreptitiously by one Warren in this case; but even he has not assayed to tell your Honor that he ever received any such instructions from any of the defendants.

If this was part of the scheme, when did this segment of the scheme come into being? Certainly when Mr. Danziger left for England, as I have pointed out before, there is not a shred of evidence that any such scheme was even discussed or outlined.

So, as I say, this allegation is one of these generalizations that doesn't tell us anything.

In other words, I want to make it clear that I don't condone some of this reprehensible conduct on the part of the defendant, or former defendant Warren, in this voluntary resort to this tricky activity on his part in telephoning to some of the persons we know he did, according to that person's testimony and his own.

Now, these are things that occurred, again, in '38 and '39. Now, when did this part of the conspiracy, if it is a part of the conspiracy, come into

being, and how was it brought about? In that regard there isn't anything here to help us or assist us.

Now, following these specific outlinings of the so-called scheme, there is an enumeration of the representations.

The first is: T.I.P. owned valuable oil lands in Trinidad, New Mexico, and producing oil from its properties, had commercial wells thereon, and was in prosperous condition.

What is the state of the record in connection with these so-called representations? We do know, your Honor, that Warren, according to his confession in open court, and according to the testimony of two witnesses, at least, that came here, did make [17] statements in connection with some of the phases of the outline that I have just referred to. But what is the record evidence? The prosecution as late as yesterday introduced into evidence an exhibit produced from Warren or by him outlining the status of the Trinidad Company. The evidence shows that in the discussions with Danziger he had come there to New York to make some preliminary arrangements, and then went to England for the purpose of making arrangements for finances. Where does the government contend that the defendants who are on trial now ever told Warren or anybody else that they were producing oil?

There is a prospectus that has been introduced into evidence. The S.E.C. had authorized the sale of 200,000 shares of that company's stock at \$5 par. The evidence of all documents shown and the

discussions up to the time of Mr. Danziger's departure for England, show that the only representation made so far as any defendant or its representatives are concerned, at that time, concerning the condition of finances of the company, were correct and true. There wasn't any discussion about misrepresenting them. As a matter of fact, the record shows that they hadn't any funds. That is what they were trying to raise. They had applied for permission to raise it in a lawful and proper manner. And so far as the fact that the T.I.P. had valuable oil land, there isn't a word of evidence in this case to the contrary.

I would like opposing counsel here to point out to your Honor where he has introduced anything that may be considered in the guise of evidence, either oral or documentary, that the Trinidad International Petroleum is not, perhaps, one of the most outstanding potential oil developments in the world. He hasn't produced any evidence.

I asked Mr. Mainland, "Did you ever find in your investigation"—and I was pretty broad—"did you ever find that that British geologist"—Craig, I think is his name—"who is [18] considered one of the most distinguished geologists in the world, did you ever find that man's report on the Trinidad International Petroleum lands was inaccurate?" And he said, "No, I never found anything to the contrary."

"Did you ever find out that they didn't have a couple of oil wells on there which were not in operation?" He said, "No."



Then what are we to do? Are we to assume, your Honor,—and that, apparently, is what opposing counsel has in mind, are we to assume that just because he prefers to think so, that this Trinidad International Petroleum Company is a hoax; and yet it is not disputed in the files and records of the S.E.C., and Mr. Mainland admitted he didn't find anything to the contrary, there had been a half a million dollars put into this project before Danziger, the Wake Development Company, or Trinidad International Petroleum even takes hold of it.

The leases displayed to Mr. Warren, the so-called, shall I say front or rear end of the so-called conspiracy, are in evidence. He says they were shown to him. Now, they speak for themselves.

Now, if your Honor will outline—where is that, one of the last prosecution exhibits that came in here last night?

Here, your Honor, as a part of Exhibit 112—and they have introduced that—is the “Information for company representatives relating to offer of Wake Development Company of shares and notes of Trinidad International Petroleum, Ltd.,” and your Honor will see what the representations are. And it is the undisputed evidence that this is the thing that was handed to Mr. Warren, and that will tell you what representations were made.

As I say, your Honor, this is sheer speculation. So far as this court knows, so far as any one knows, from the record evidence here, we have a geologist's report, who is reputed—and it is not disputed—to be one of the most eminent geologists in the

world, he gives a report on these lands, he reports on the [19] character of oil that is prevalent there, he reports on the fact that there are a couple of wells on there.

Now, who told Warren or anybody else that they were pumping oil? I would like opposing counsel to tell me who assertedly testified that such representation was ever made by any of the defendants on trial.

I don't know what this man Warren may have told some of these people. He may have told them that they had gushers on there. But where do we fit in in that representation?

What is the state of the record in regard to whether the rights were of value? Is there any evidence that they weren't of value? These persons who allegedly were hoodwinked and defrauded, in the main, so far as I can recall, paid \$3 or \$5 par stock and received the \$5 preferential note. The testimony so far as we know is that the Great Eastern Gas Company stock was of no value. That is their charge and that is their contention, and we don't take any issue with them on that. Now, on what assumption can the government claim that the rights were of no value, having failed even to take the trouble to find out the potential value and the potential value that the stock may acquire or could acquire?

As your Honor will notice, nobody returned the stock. So far as the record shows, they are still hanging on to it. They were picked up here by the government at their request in connection

with their investigation; but there was no surrender made of it, or even, for that matter, an offer of surrender. .

Now, the agreement introduced in evidence here between the Great Eastern Company for the issuance of those rights was an agreement that was entered into bona fide with an escrow, and so forth, and we cannot assume that the rights were or are of no value. There isn't any evidence to that effect, even an opinion.

We do know that there was no discussion asserted to be had between Mr. Danziger or any representative of the corporate [20] defendants with any other person that the stock was, in fact, listed on the London stock exchange.

I can point out to your Honor in every letter that went over to any one of these persons that there is an unqualified and definite declaration that it is not listed and never has been.

Shall I point that out to your Honor?

The Court: Yes, if you wish.

Mr. Rose: "These notes are not listed and are traded over the counter. We have been advised that sales have been made during the past year, prices ranging from 12 to 20 shillings or the equivalent of 3 to 5 dollars American money."

Your Honor will find that representations on the Wake letterhead to these persons who were asserted to be defrauded in every instance. They are specifically advised that they are not listed.

I do not try to state to your Honor that Warren or Carter or his henchmen did not tell these

people that they were listed; but I say where is there any evidence that we were a party to that or ever agreed to it? That is the point I am urging. They don't claim that we ever stated that it was listed on the stock exchange.

I can show you letter after letter, the minute that question comes up, without equivocation, without any hedging, any person who made inquiry respecting this Trinidad stock was told that the stock had never been listed on the stock exchange. And as far as the price is concerned, no representation is made that it ever brought any more than the par.

That is the point that I want to point out to your Honor. They say the representation of listing in London. That representation was made by these connivers and contrivers who were acting in cahoots with Mr. Warren. But I want to know where is there any testimony that we were ever privy to that, or ever even discussed it,—when our letters definitely show that it was not listed. [21]

There is the other phase which I think is a detestable thing: that trick that Warren seemed to be so proud of in calling on some of these persons, telling them that he was a representative of some Sterling Company in Canada who were interested in buying up the preferential notes at a higher price than the par, or something to that effect. We know he did it. He confesses he did. But where is there any evidence that we, the defendants on trial, were ever particeps criminis, or participated, or even were privy to such thing?

As a matter of fact, you will find in the docu-



mentary evidence that wherever that question came up we denounced it and repudiated it and made it quite clear that no such representation was ever authorized.

As I say, although that misconduct, and I certainly confess that it is, that strategem resorted to on the part of Mr. Warren and his henchmen is not to be condoned, nor is he to be applauded for it, where does the government contend that we, assertedly, entered into a conspiracy of that type, and when did we do it?

There is that reference to the fact that a note was sent in 1940 to be signed by Mrs. Parsons for the balance due for the certificate.

That about concludes an analysis and diagnosis of Count 1.

I respectfully submit to your Honor, so far as I can glean from the most impartial approach to a consideration of the evidence in this case, where is there anything to uphold any one of these segments of this so-called conspiracy?

You will find as we review the evidence in this record up to the present time that something of this character that is hinted upon in here occurred in 1940 for the first time, something occurred in '39, something of that character occurred in one instance in '38; but if the government's representation to your [22] Honor is correct that this conspiracy charged in the indictment was formulated in 1935, how can we reconcile these divergent plans in the face of the fact that even Warren doesn't confess that he ever discussed with any



of the defendants or their representatives on trial the subject of resorting to the tricks and devices that he employed?

The Court: May I ask you a question now? Your plan, I take it, is to make a complete argument, as you have been doing on count 1, as to all of the counts? You are going to state another motion pretty soon?

Mr. Rose: Yes.

The Court: Your plan is to make a complete argument as to all of the counts at this time?

Mr. Rose: That's right.

The Court: That would call upon you to make a full statement of the government's position, Mr. Lucas, and I would like for you to be prepared to follow Mr. Rose as he concludes as to each count. Do you see what I mean?

Mr. Lucas: Yes, I shall try to follow that.

The Court: That is what I am going to have you do. Instead of hearing Mr. Rose clear through on all of the 17 counts and then hear you in answer to them, when he finishes, as he appears to be doing now, his discussion about count 1, then I will want you to answer, as however you think it should be answered, his discussion up to that point.

Mr. Lucas: Yes.

The Court: Then I will hear him again and then I will hear you again.

Mr. Lucas: Very well.

The Court: And so on through the 17 counts of the indictment.

Mr. Lucas: I have been listening very carefully to Mr. [23] Rose——

The Court: He hasn't finished.

Mr. Lucas: It was only in the last two or three minutes that I discovered that he was talking about count 1. I thought he was making a general resume.

The Court: I don't know that he is through. I saw you pulling yourself together like one does when they are being called on. I wanted you to know how I am going to split up this discussion, so you could plan accordingly.

You haven't finished?

Mr. Rose: If it is agreeable to your Honor, and I think it is a very happy proposal and will expedite things, as to each count I am disposed to defer presenting the motion until the government indicates their position on the count.

The Court: No, no; I want you to state your full position as to each count separately.

Mr. Rose: Very well.

Your Honor, by reason of the matters and things that I have outlined to the court in an analysis of the allegations and the proofs in respect to the recitals, charges, allegations, contentions, set forth in count 1, and the evidence thereon, in behalf of the defendant J. M. Danziger, as an individual, I move that the same be quashed and dismissed upon the following grounds; severally: One, that it does not appear by the government's evidence that the defendant J. M. Danziger, individually and personally, participated in that degree requisite

and required by law to bind him as an individual in any of the asserted acts supported by any of the proofs offered by the government of the divers acts and things charged in the first count of the indictment, and upon the ground that there is a failure of evidence of any competency to establish that the defendant J. M. Danziger, individually, was privy to or actually participated in or personally authorized any of the [24] acts shown by the evidence presented to this honorable court in support of count 1 of the indictment.

The Court: Now, complete your motions as to that count.

Mr. Rose: I, therefore, move that said count as to J. M. Danziger, personally as an individual, be quashed and annulled.

The Court: Now I will hear you, Mr. Lucas. I realize, of course, that the argument both of Mr. Rose and by you, Mr. Lucas, will be longest as to this count, because it involves a discussion of the major background to all of the counts, but we have fifteen minutes, and you might just as well begin.

It is five minutes to 11:00.

(Short recess.)

#### ASSIGNMENT OF ERROR No. 7

Mr. Rose: Your Honor, at this time——

The Court: Go ahead and give me all of your remaining motions, Mr. Rose.

Mr. Rose: Very well, your Honor.

At this time I am addressing to the court a motion to quash and annul—yes, I have it—Count 2 of the indictment herein—wait a minute. I will withdraw that, your Honor.

I submit to your Honor a motion to quash and annul Count 1.

The Court: You hadn't stated that?

Mr. Rose: No, I hadn't your Honor. I thought I neglected to address that motion as to the defendant Trinidad International Petroleum, Limited, a Nevada corporation, upon the grounds, in addition to the analysis of the evidentiary matters and contentions contained and set forth in the indictment as presented in the motion in behalf of the defendant, J. M. Danziger, individually, and I incorporate those matters by reference, and [25] add the ground that there is absolutely no evidence that this corporate entity at any time participated or was a party to the alleged conspiracy set forth in Count 1.

I now present to your Honor a motion to quash and annul Count 1 as against the corporate defendant Wake Development, a Delaware corporation, upon each and all of the grounds heretofore submitted in support of the motions on behalf of the defendant J. M. Danziger, individually, and the Trinidad International Petroleum, Limited, a Nevada corporation, and adopt all of the grounds presented in behalf and in support and as grounds for the granting of said motion.

At this time, your Honor, I move in behalf of the defendant, individually, J. M. Danziger, to

quash and annul and set aside Count 2 of the indictment upon the following grounds: Count 2, in addition to merely realleging and incorporating by reference—they don't say it, but we will assume that is what it means—all of the allegations of Count 1 except the last two paragraphs, this count purports to make it an offense and alleges the violation of the laws of the United States, particularly Section 17 (a) (1) of the Securities Act of 1933, by the allegation the defendants, in the plural, on May 8, 1939, in the sale to Florence Lawyer placed in the mail in this jurisdiction a letter, that letter is set forth in the form of a facsimile, or, rather—it will show you what happens to your mind; I can't think of what they call this process for the moment.

Mr. Mainland: Photostat.

Mr. Rose: Photostat of a letter bearing Los Angeles postmark of May 8, and addressed to Mrs. Florence S. Lawyer. This letter, your Honor, on the letterhead of the Wake Development Company, and bearing the signature of [26] "A. Faulkner" merely states: We acknowledge receipt of your letter of May 3rd with enclosure of certificates, specifying certain shares of the Golden Quebec Mines stock, and your check in the amount of \$390.00, and certificate for 111-3/7ths shares of Trinidad International Petroleum, Limited stock and units of preferential profit sharing notes will be forwarded to you by registered mail within a few days.

I submit, your Honor, that that reputed act ap-



parently is designed to be an overt act in fulfillment of a conspiracy. This multitude of allegations adopted by reference. But, I submit, your Honor, that the sending of this letter cannot possibly legally be construed as being an unlawful act or the use of the mails as defined by said Section 17 (a).

The Court: Mr. Lucas, will you give your characterization of 1 and 2? You don't need to get up.

Mr. Lucas: Yes, your Honor.

The very closing words of the letter itself show it is well within the statute——

The Court: No. What are 1 and 2? What kind of counts are Counts 1 and 2 by the government?

Mr. Lucas: Those are Securities Act counts. And the very closing words of the letter——

The Court: They are not mail fraud counts?

Mr. Lucas: No; there is a companion mail fraud count. Count 15 is a companion to Count 1, but they are Securities Act counts, and the very closing part of the letter brings it within the statute.

The Court: That is what I wanted from you now. Continue.

Mr. Rose: Your Honor is undoubtedly familiar with 17(a) [27] of the Securities Act of 1933 as amended, or shall I read it to your Honor?

The Court: Don't assume that I am familiar with too much, Mr. Rose.

Mr. Rose: The charge in this particular count, your Honor, is set up as an alleged violation of Section 17 (a) (1) of the Securities Act. Now,

this Act is in the form of a mail fraud statute in that it says:

“It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly——”

Subdivision (1), which is the one that we are relying upon:

“to employ any device, scheme, or artifice to defraud, \* \* \*”

I submit that by no stretch of the imagination can this letter, and I have read it, be deemed or regarded as the use of the mails as defined by Section 17 (a) subdivision (1).

The Court: Where do you think that would be in U. S. C. A., what volume?

Mr. Rose: U. S. C., Section 77q, subdivision (a).

The Court: Is that in the main part or in the back of the book, do you know, Mr. Lucas?

Mr. Lucas: It is in the main part.

The Court: 77q——

Mr. Rose: It is 77q, Subdivision (a).

The Court: What page?

Mr. Lucas: 456.

The Court: 77q, which is entitled “Fraudulent Interstate Transactions?” [28]

Mr. Rose: That is correct.

The Court: (a) reading:

“It shall be unlawful for any person in the

sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly——”

Now, you proceed, Mr. Rose.

Mr. Rose: “to employ any device, scheme or artifice to defraud.”

I don't think it would be very helpful to your Honor, but I may make the observation so you would have my theory about it, but I would construe that statute to be a statute on a specific offense where interstate transportation is used in perpetrating a fraud.

Now, this particular act here, your Honor, is the sending of this particular letter. Now, the letter is an acknowledgment of a receipt of some money, and it merely declares that they are going to send some stock by other mail, and it is an act of the Wake Development Company.

There isn't anything that I can find in this count or in this act that would constitute a public offense. Certainly it is no public offense on the part of the defendant, J. M. Danziger, in whose behalf I am relegating this motion, it isn't even his act, and isn't the character or type of an act denounced by the Code or by the Securities Act.

In other words, I say I have received your check, and so forth, and I am going to send you some mail. They are not going to try to sell her anything here. Whatever transaction has already taken place has already taken place not through

the use of the mails or the use of any form of interstate transportation. There isn't any evidence here on the part of Lawyer, anyhow. The only thing we have is the statements that Warren testified to in his [29] transactions with her. But that isn't what is charged here. They are attempting to set up a substantive offense as a distinct crime by the sending of this particular communication.

In other words, I have in mind, your Honor, so your Honor will not think I am confused on the legal ramifications of this, that overt acts where a conspiracy has been established committing a particular crime, I recognize that each overt act is a separate offense; I am not in the least bit confused about that. But I submit that there is no evidence whatever to hold or charge, even, the mailing or the participation in any manner or respect, of this particular communication, on the part of Danziger, and I submit it on those grounds.

They are trying to make a substantive offense an overt act. At least they don't charge it. If we construe the language——

The Court: How many counts like this are there, Mr. Lucas?

Mr. Rose: Quite a few.

Mr. Lucas: Counts 1 to 8, inclusive—pardon me, counts 1 to 7, inclusive.

The Court: How come you are not making the same point as to count 1, Mr. Rose?

Mr. Rose: In what respect? Count 1, your Honor, sets up—you mean by that letter that they attach?

The Court: I am just asking you that question. How come you are not making the same argument as to count 1 that you are now making as to count 2?

Mr. Rose: Count 1, your Honor, is this omnibus allegation——

The Court: That is incorporated by reference in count 2.

Mr. Rose: I don't think it is incorporated by reference, except I say it might be construed——

The Court: You claim it is? [30]

Mr. Lucas: Yes, undoubtedly.

Mr. Rose: They do say: "we allege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:"

I don't know, in the light of the construction of the language in an indictment, I think they might very properly construe that as sufficient assertion of making a part of this count 2 all of the matters of count 1.

The Court: Except the last two paragraphs?

Mr. Rose: Yes.

The Court: Which pertain to the particular person named there, Mrs. Parsons.

Mr. Rose: Yes.

The Court: My question is how come you didn't make the same argument as to count 1 that you are now making as to count 2? I am asking you not to create any difficulty, but I am asking for information.

Mr. Rose: I don't think I have fully argued



count 1. I thought I would generalize and set forth my grounds of my motion to your Honor, and your Honor would, necessarily, conclude that I am advancing the same argument. In other words, if I haven't I want to make it clear to your Honor that my position is——

The Court: You are saying to me now that the letter describing count 2 is not in and of itself deceitful, let me use that word, you are saying it is just a letter of transmittal of some stock?

Mr. Rose: It is not an act that might be relegated as an overt act in carrying out a conspiracy, because there is no contention that there ever was a discussion or a conspiracy, in fact, as alleged in count 1 or at all, whereby it was part of the so-called or alleged scheme to transmit a letter of this character; that such an arrangement and agreement would per se not be of a [31] criminal act or character.

The Court: I better hear you, Mr. Lucas.

Mr. Rose: What I want to point out to your Honor is this: They have attached the letter to the tail end of count 1, and I am glad your Honor called my attention to that. As I said, this is a rather amazing potpourri, this first count, but I find that they wind up, in fact—frankly, your Honor, I didn't observe that, because this letter here that I have to reattach, it became loose here—frankly, that is why I took a little time in the beginning here making that motion, I thought this letter here was count 2, but I find now, your Honor, that the conspiracy that is alleged in count

1 purports to be and is alleged to be a violation of section 17(a) subdivision (1) of the Securities Act. Now, frankly, your Honor, this is the first time I had any idea that that is the theory of this conspiracy.

The Court: That the first seven counts are—what do you call that act?

Mr. Lucas: Securities Act of 1933.

The Court: Is that the short title of it?

Mr. Lucas: Yes.

The Court: The first seven counts are Securities Act counts, we will call them that.

Mr. Lucas: Yes. And that is the violation of the basic provisions of that act in using a scheme to defraud.

The Court: So much for your first seven counts. Then how many counts and what numbers are they that are mail fraud counts?

Mr. Lucas: 12, 13, 14, 15, 16. 8, 9, 10 and 11 are registration counts, as we refer to them. 17 is the conspiracy.

The Court: Do you have companion mail fraud counts to each of the seven Securities Act counts?

Mr. Lucas: I don't say in each one. For instance, the [32] companion count to count 1 in the mail fraud is count 15; companion count to count 2 is 9 and 14, there are two companion counts there; count 3 carries the companion count of count 10; count 4 has no companion count; count 5 has the companion count of count 11; count 6 has the companion count of count 16.

The Court: All right.

Mr. Rose: I desire to add, with the court's permission, to the grounds submitted in support of the joint several motions, singularly, in behalf of the three defendants, two corporate and Mr. Danziger, the grounds for the motion for the quashing and dismissing of count 1, that the evidence is wholly lacking and wanting in establishing that the use of any interstate transportation or mails or anything transmitted therein was in legal contemplation or pursuant to section 17 (a), subdivision (1) of the Securities Act of 1933 or 15 U.S.C. 77q, subdivision (a) (1) a violation thereof, in that it affirmatively appears that, one, that the securities involved in any of the transactions herein referred to or alluded to in the testimony. The record evidence shows that it was, one, the personally owned stock of the Wake Development Company, and that the communications utilized both—that is, the interstate communications utilized or resorted to were per se not fraudulent or in any manner or respect a devise, scheme or artifice to defraud, either under the Securities Act of 1933 or the amendments there at that time existing or of the code specified in said indictment. I desire to add that as grounds.

The Court: It may be added. Pardon me, now, Mr. Rose. Mr. Lucas, do I understand the government to take the view that the Securities Act, with which, incidentally, I have never dealt before in a criminal prosecution, is roughly, I may say, the same as the mail fraud statute in this respect: that any one, any group of defendants—it would

be a group, because we have several here—any group of defendants who enter into a scheme to defraud [33] by the sale of securities, and thereafter employ the mails in carrying it out, that that is a violation of the Securities Act?

Mr. Lucas: Yes, your Honor stated it very clearly.

The Court: It is very close with the mail fraud?

Mr. Lucas: It is construed by the courts exactly parallel, you might say, in every particular with the mail fraud statute.

The Court: Let me state it another way, then. If the subject matter of a prosecution is securities, the evidence which would support a mail fraud prosecution will support a prosecution under the Securities Act?

Mr. Lucas: Right; other elements of the offense being present, it is exactly the same.

The Court: You don't need to drag that in. The mail fraud statute covers other things than securities.

Mr. Lucas: Yes.

The Court: You don't need to drag that in. The mail fraud statute covers other things than securities.

Mr. Lucas: Yes.

The Court: All right, then. My question, again, is if the subject matter of a prosecution happens to be securities, then the evidence which would support a prosecution under the mail fraud statute will support a prosecution under the Securities Act?

Mr. Lucas: If I understand your question, yes. The answer is yes.

The Court: Under the mail fraud statute if two or more enter into a scheme to defraud, and use the mails to execute it, that is a mail fraud prosecution?

Mr. Lucas: Yes.

The Court: Your claim is if two or more enter into a scheme to defraud by the sales of securities, and use the mails to execute it, that is a violation of the Securities Act?

Mr. Lucas: Yes, that is as I understand the law, and that [34] is what I am going to maintain before you in my turn for argument.

Mr. Rose: He maintains it, all right, but I am quite sure that he hasn't furnished your Honor with any authority, nor can he, that that is the fact.

This act here, the Securities Act, and the U. S. Statute, expressly under subdivision (c) withdraws the exemptions provided in Section 3, claiming that that doesn't apply. This section pertains and relates to the use of mails or interstate transportation in the proceedings and process of defrauding a person in the sale of securities, irrespective of whether it is subject to registration or anything else, and it is not analogous to or intended to be a separation of the use of the mails or interstate transportation facilities in distinguishing between the sale of a security or bond from any other matter at all.

This is using the mails in a scheme to defraud through the use of those particular forms of communication, and it is a distinct and specific offense,



and the statute relegates itself to the use of the mails as it is there defined: "to employ any device, scheme or artifice to defraud."

It says, "\* \* \* in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly."

In other words, it is the use of these facilities in perpetrating a fraud. They have made a lot of allegations here, but as I point out, I don't know how they claim that the mails were so used—unless your Honor should hold and conclude that the so-called rights phase of this transaction, where a person was given the right that they were at liberty to exercise, was a fraudulent device—and I don't think there is anything here in this record, from the standpoint of rules of evidence, or from a consideration of the thing itself, that could be called a fraudulent device, that [35] is, something to defraud any one.

The Court: I am not sure that you stated your motion as to count 2.

Mr. Rose: I was in the process of stating it, your Honor, when your Honor called my attention to one phase of count 1, for which I am very grateful, which I inadvertently overlooked.

The Court: We better go back to count 2, then. You better begin again with your statement of the motion. That is the Lawyer count.

Mr. Rose: In behalf of the defendant J. M. Danziger as an individual defendant, I move that count 2 of the indictment be annulled, quashed and dis-

missed upon the following grounds: One, that the evidence is wanting and lacking in supporting each of the allegations which are purported to be adopted by reference as a part of count 2, and that the act as set forth, namely, the transmittal of the particular letter of which a photostat is attached and made a part of the allegations of count 2, is not such an act as is contemplated by Section 17(a), Subdivision (1) of the Securities Act of 1933, and its analogous statute, namely, 15 U.S.C.A. 77q (a), subdivision (1). And in addition to all of the grounds previously submitted with relation to that portion as to the charge in count 1 which have been presented in support of dismissal of count 1, I herewith reallege and I particularly point out that there is no evidence whatsoever that defendant J. M. Danziger in any manner participated in, was privy to, acquiesced, or was a party to the placing of the particular letter therein set out in the mails, or at all; that said letter on its face shows that it is not the act of the defendant Danziger, that it is not the fact. It affirmatively appears, and testimony shows, one, that this letter was prepared and written by the secretary of Wake Development Company, and if by any one that she even placed it in the mail. And it, manifestly, cannot, under any sound hypothesis, be based as an overt act of this reputed [36] conspiracy that counsel has represented to your Honor as taking place in 1935. And upon all of the grounds I submit that motion as to count 2 on behalf of the defendant J. M. Danziger.

Now, your Honor, in behalf of the defendant

Trinidad International Petroleum, Ltd., a Nevada corporation, a defendant herein, I submit the motion to quash, annul, and set aside count 2 upon all of the grounds heretofore submitted in respect to count 1, which are incorporated by reference and made a part of this motion, and upon the special additional ground that there isn't a scintilla of evidence that defendant Trinidad International Petroleum Company in any measure or respect had anything whatsoever to do with that letter, or that that letter pertains or relates to any purported act on the part of said corporate defendant.

I submit to your Honor a motion to dismiss, quash, and annul count 2 upon each and all of the grounds heretofore submitted in respect to count 1 and in support of the quashing of count 2 previously addressed to this court in the motion in behalf of the defendant J. M. Danziger and Trinidad International Petroleum as it may pertain or relate to the defendant Wake Development Company.

The Court: Now, proceed to count 3, Mr. Rose.

Mr. Rose: At this time, your Honor, on behalf of the defendant J. M. Danziger I move to quash, dismiss, and annul count 3 upon the following grounds: In so far as the reiteration by reference of all of the parts of count 1, which is set forth in the second paragraph of count 3, which embraces a reallegation of all of the matters and things set forth in count 1 save and except the last two paragraphs, I adopt by reference each and all of the grounds heretofore submitted in support of the motion as to that part of the indictment, and I fur-

ther interpose and add to that in support of the motion to dismiss count 3 as to the defendant Danziger that the act, to-wit, namely, that on January 19, 1939, and it does say in the sale to Harry F. Pitts, that the placing of the letters set [37] forth in facsimile through a photostat, that the matters and things contained in said communication are not such an act as is proscribed by Section 17(a), Subdivision (1) of the Securities Act or of 15 U.S.C. Section 77q, Subdivisions (a) and (1). And here, again, is a communication which on its face shows it was a letter of the Wake Development Company bearing the signature of "A. Faulkner" as secretary, and that said act and said communication in contemplation of the law does not constitute the commission of the offense purported to be charged by the Section 17(a) or the United States statute referred to, and that there is no evidence to connect the defendant Danziger personally with the transmittal of this particular letter, nor can it be deemed to be a part of the reputed conspiracy represented to this court as having been formulated in 1935.

The Court: You had just moved under count 3, Mr. Rose, to quash in behalf of defendant Danziger.

Mr. Rose: If your Honor will permit me, apropos of the subject that was discussed in general between your Honor and opposing counsel just before the recess, it brings a certain thing to my mind that I would like to state to the court, if you will permit it.

Frankly, your Honor, I have been puzzled here

at various states of this trial to comprehend even with some degree of certainty the theory of the government's case. We know as a legal concept in principle the matter of *expressio unius est exclusio alterius*.

In this case the form of conspiracy charged is specifically identified as a purported violation of Section 17(a), Subdivision (1) of the Securities Act of 1933 and of the U. S. Code Title 15, Section 77q, Subdivision (a). Now, from counsel's observations made to your Honor, I am under the impression that he thinks he is in a state court trying one of these omnibus so-called conspiracy cases in which the acts, omissions, commissions and deceit, and so forth, [38] constitutes an offense; now, for example, taking the admissions of Mr. Warren here, in all of the transactions concerning which he testified he committed the offense commonly known as grand theft by trick and device, or he committed the offense of obtaining money under false pretenses, all offenses concerning which, and each of them, he would be subject on his own confession and admission to indictment, trial and conviction in the particular communities in which he committed these offenses.

On the other hand, the question that occurs to me, your Honor, is this: that is no concern of the United States. As I pointed out, we are not dealing with the so-called offense concerning which your Honor made inquiry, namely, the use of the mails to defraud. This offense here, your Honor, as outlined in the Securities Act and in identical



nomenclature in the U. S. Code, is a substantive specific offense; it has its identity and it has its parts.

Now, what I have in mind is what it says here. I hope your Honor doesn't think I just want to take up time, I am not going to go back to this, but I would like to make my position clear so when opposing counsel replies he will have an opportunity to address the court on the point of law that I am trying to background and relegate these particular motions.

A substantive offense: "It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly—" and subdivision (1) is the particular section of this offense: "to employ any device, scheme, or artifice to defraud." Now, that is the offense charged so far as we have covered these particular counts.

Now, your Honor, we know it is elementary that a conspiracy to commit a particular offense is of itself an offense. [39] Conspiracy to expectorate on the sidewalk would be an offense, that is the conspiracy. Now, my point is this: This section, necessarily, contemplates a scheme and device to use interstate commerce facilities communications and transportation, that is, the use of mails, in a scheme to defraud in the sale of securities.

Your Honor, the tail end of this section, subdivision (c) specifically outlines that the exemptions provided in section 3 shall not apply to the pro-

visions of this section, meaning that it doesn't make any difference whether the security is subject to registration under the Securities Act or at all. In other words, this is a separate and distinct offense.

The Court: You might call it a federal blue sky act?

Mr. Rose: That is correct, your Honor, that is exactly what it is. It is a substantive offense, the conspiracy of which would constitute one offense, and the particular transaction in each and every instance would constitute an offense, and the overt acts of each as part of that conspiracy would constitute a specific offense.

Now, without taking too much time, here is a very brief part of a case that I am going to submit to your Honor for consideration. I am submitting the case of United States v. Monjar, reported in 47 Fed. Sup. at page 421. This deals with 77q, the specific form of offense that we are talking about. It says:

“The first count, however, does not allege that the mailing of the letter referred to there-in was ‘for the purpose of executing said scheme and artifice to defraud and for the purpose of obtaining money and property by means of false and fraudulent pretenses, representations and promises and attempting so to do \* \* \*.’ It is therefore not sufficient, and I sustain a demurrer as to it. In fact, the government concedes that the defect in Count 1

exists. However, the government [40] may still utilize count 1 as a 'reference' count, so that the remaining counts of the indictment can incorporate the scheme set out in count 1."

Citing two Circuit Court cases.

Now, my position, your Honor, is this: We must be cautious in considering from a legal standpoint and not from an appeal to passion and prejudice the state of the evidence in so far as it may be deemed to apply to the alleged offenses committed here and set forth in the indictment, and in doing so we must separate and eliminate from consideration in this case the particular grand thefts and larcenies committed by Carter in these several states, because obviously this substantive offense pertains to the use of those facilities in interstate commerce, a scheme to defraud by means of those facilities.

Now, then, what have we in connection with this scheme here? If your Honor should hold that, for example, the so-called letter that went out under the Trinidad letterhead, after Mr. Danziger, had departed for Europe, whether the arrangement to send out that letter comes within the purview of subdivision 1 of this section, namely, to employ a device, scheme or artifice to defraud; now, that is what is alleged to have been the scheme here, that they used that. Now, what is the record evidence in connection with that, your Honor? That device, if it may be called such, was a result of what? An agreement between the Great Eastern Gas Company, a Delaware corporation, with its

President DeHart and others, in which this trust company in Delaware was a party, and it is not a scheme between Carter and all of the so-called aliases and these defendants. And if they held and claimed that that was a scheme in violation of this substantive act, they do not allege it and they haven't brought in the proper parties. In other words, they have attempted to charge us with a scheme in the utilization of mail concocted in 1935 to use the mails and telephones, and haven't [41] offered one word of testimony in support of that contention. They don't even allege it. And they don't say that the mails were used, as I pointed out in this case to your Honor. They are trying, as I say, a conspiracy allegedly in which they are trying to tie in everybody, which would constitute a conspiracy to commit theft or larceny by trick and device.

Now, as far as the use of the mail, that part of the so-called scheme which comes within the purview of the act, your Honor would necessarily have to find that the employment of that right privilege pursuant to a contract in writing between the Great Eastern Gas Company and the Trinidad Company was a conspiracy between those two corporate entities. Danziger would be deemed under the rules of evidence, if that act be deemed as a violation of this section, to be acting in behalf of the corporate defendant Trinidad Company. Now, if the conspiracy, so-called, alleged to have been entered into in violating the substantive offense, the letter of the Wake Development Company ask-

ing them if they had exercised that right, would be deemed an act to defraud, that is a different story.

Now, that is the thing that I have in mind. I have been puzzled to know the theory of the government's case here. He made a speech here about the fact that what is his name? flashed a newspaper, and he pointed to Trinidad and stuck it in his pocket. All of that would be fine if we were trying a case here against Carter for grand theft by trick and device.

The Court: What I would like for you to do would be to complete your motions as to the first seven counts, which counsel says are laid under the Securities Act, and then we will ask him to state his theory as to them on the record; but I would like to get these motions down.

Mr. Rose: Very well. Do your minutes reflect that I completed a motion as to count 3 on the defendant Danziger?

The Court: As to the defendant Danziger, yes.

Mr. Rose: I now, your Honor, address to the court a motion as to count 3 of the indictment in behalf of the defendant Trinidad International Petroleum, Ltd. on the ground that the transmittal of said letter, a facsimile of which is set forth and made a part of said count 3, is on its face not an act of the Trinidad Corporation, and that the transmittal of said letter does not constitute the commission of any offense as contemplated by Section 17 (a), Subdivision (1) of the Securities Act, or Title 15 U.S.C. Section 77q (a) as charged in said count.



And may I adopt by reference each and all of the matters advanced in connection with a motion to quash said count 3 by incorporating the matters and things heretofore submitted in behalf of the other defendants on the ground that said purported act on the part, reputedly, of the Wake Development Company does not constitute a public offense or a violation of said substantive act 17 (a), Subdivision (1) and 77q of Title 15 U.S.C., Subdivision (1), and I move that that motion be acted upon on said count as pertains to said defendant.

The Court: Now, count 4.

Mr. Rose: Your Honor, as to count 4 of this indictment I submit to your Honor a motion in behalf of the defendant J. M. Danziger, individually, that said count be quashed, annulled and dismissed upon the following grounds: As to the attempt to reallege and incorporate the first count, I submit to your Honor without repetition the reasons and the matters presented in support of that particular count and that portion of the count in the preceding counts as if said grounds were restated at this time. And in addition thereto, upon the ground that the reputed offense set forth in said count is relegated to, other than the reference reallegations, to a reputed act of the transmittal on or about the fifth day of January, 1939 in the sale to F. A. Russell of a letter bearing said date. In this regard I submit that said letter on its [43] face does not purport to be an act committed by or at the solicitation of the defendant Danziger; that said act does not contemplate or on its face

purport to be a violation of Section 17 (a), Subdivision (1) of the Securities Act as charged, nor the identical act set forth in Title 15 U.S.C. 77q, Subdivision (a), upon the ground that said count fails to charge that the transmittal of this letter was, and the purported mailing thereof was for the purpose of executing a scheme of the character contemplated by said acts and for the purpose of executing said scheme and artifice to defraud, and for the purpose of defrauding the property by means of false and fraudulent pretenses and representations.

In this connection I call your Honor's attention this is the first of a series of letters referring to a mining stock transaction, and the testimony in this case on the part of Warren states that he never discussed with Mr. Danziger or any of the other defendants the subject of Canadian mining stock.

Now, that is the state of the record. If counsel can point anything out to the contrary I would like to know where it is. On each and all of the several grounds I submit the motion.

I now move in respect to said count 4 that the same be quashed, dismissed and annulled as to the defendant Trinidad International Petroleum on the ground that there are no allegations that the said transmittal of said letter was at their instigation or on the ground that they participated in it in any respect, and incorporate all of the other grounds heretofore addressed in support of said motion.

I submit the same motion upon all of the grounds stated as to the defendant Wake Development Company.

The Court: Now, count 5.

Mr. Rose: As to count 5, I submit to your Honor a motion on behalf of the defendant J. M. Danziger as an individual that said count be dismissed, quashed and annulled upon the grounds, [44] one, that—in that connection, I incorporate by reference each and all of the matters addressed to that portion of count 5 that I have heretofore submitted, which portion purports to adopt by reference count 1, and in addition thereto, and especially, I submit that the purported allegations therein which seek to do charge that on September 13, 1939 there was placed in the mails to Adeline B. Skinner in the sale of securities a check for \$300 drawn on the Farmingdale New Jersey Bank in violation purportedly of Section 17 (a), Subdivision (1) of the Securities Act of 1933 and 15 U.S.C. Section 77q (a), Subdivision (1), and that there isn't a word of evidence that said check was deposited in the mail by the defendant J. M. Danziger.

In that connection I submit to your Honor that the depositing in a bank of a check could not be deemed and contemplated as the commission of any offense. It wouldn't matter to the government whether this check was sent to Farmingdale, New Jersey, by pony express or by a man on a bicycle, and so far as we know by any competent evidence there isn't anything here to show who put this in the mail, except we may infer from the testimony

of this bank clerk who says that his records reflect this check was placed in that Bank of America here for collection. There isn't any testimony to show how this check got back to Farmingdale, New Jersey. Nobody has testified that it was sent back there by mail or by means of any interstate transportation over which the government has any control.

Frankly, I am very much puzzled about how the encashment of a check can constitute an offense in violation of the laws of the United States. I merely make that by way of observation in addition to my other grounds and reasons for the motion.

I submit that motion to your Honor in behalf of the defendant J. M. Danziger.

I now submit to your Honor a motion on behalf of defendant Trinidad International Petroleum on all of the grounds heretofore [45] set forth and presented both by reference and with particularly to said count in behalf of the Trinidad International Petroleum Company, and on the further ground there is nothing whatsoever to indicate that they were in any manner privy or participated in the encashment of this check in any manner or means.

I incorporate by reference and submit all of the matters and the grounds submitted in support of the motion to dismiss this particular count and such matters as have been presented collateral thereto by reference to former grounds specified and applied to the former counts and count 1 in behalf of the defendant Wake Development Com-



pany, and on the further ground that the encashment of said check cannot and does not constitute a violation of any of the sections or statutes recited in said count as an alleged violation.

As to count 6, your Honor, I now submit to your Honor a motion in behalf of the defendant J. M. Danziger to quash, annul and dismiss count No. 6 of this indictment upon each and all of the grounds heretofore submitted in respect to that part of count 1 adopted by reference as heretofore submitted in connection with count 1 and amplifications of grounds for dismissal of said count 1 with the same force as if said grounds were now reiterated to the court. And in addition thereto that the said count fails to charge a public offense in that it purports to allege that on January 28, 1939 in the sale to E. Barrie Smith of securities the defendants jointly placed in the mail a check for \$195 on a Hartford, Connecticut bank, that is, the Hartford National Bank and Trust Company, and facsimile or photostatic copy of said check is made a part of the said allegations. And I submit that there is no evidence in the case that the defendant Danziger authorized or participated and placed said check in the mails.

And, for that matter, I submit, again, that there is no evidence that any of these defendants placed said check in the mail. If it was placed in the mails at all, if we may assume that [46] by surmise, conjecture and speculation, it was an act on the part of the Bank of America here in Los Angeles; and for all we know they may have used roller



skates, as far as the record evidence goes, in transmitting that check to the Hartford National Bank and Trust Company.

I now submit to your Honor a motion in respect to said count in behalf of defendant Trinidad International Petroleum Company, and with the court's permission I incorporate by reference all of the matters and the grounds heretofore submitted in respect to count 1 and the similar allegation in regard to the transmittal of check No. 5—that is count No. 5, with the same force and effect as if each of these matters were reiterated to the court in support of said motion.

Just for the purpose of the record, your Honor, I am assuming from your Honor's judicial acts in regard to the several motions, that your Honor is accepting and permitting me to refer by reference?

The Court: That is correct.

Mr. Rose: That is understood?

The Court: It is understood.

Mr. Rose: Because we have one judge on the Circuit Court, in one case that indicated that all the grounds must be reiterated, and I don't want to bore the court by going through that again.

The motion now has been made in behalf of Trinidad; is that correct, your Honor?

The Court: That's right.

Mr. Rose: I now present the same motion, namely, to quash, annul and dismiss as to the defendant Wake Development Company, and incorporate by reference the reasons and grounds as

stated in support of said motion as heretofore submitted in behalf of the other defendants.

Now, as to count 7—— [47]

Mr. Lucas: At this point, if your Honor please, the government will stipulate that count 7 be dismissed as to all defendants.

The Court: Why?

Mr. Lucas: On the ground we have not offered sufficient proof to support that. And that is the only one.

The Court: I am going to let Mr. Rose complete his record, nevertheless. What you might say about count 7 might have some application to the whole situation, counts 1 to 7.

Mr. Rose: I now submit to your Honor in behalf of the defendant J. M. Danziger, individually, a motion to dismiss count 7, to quash and annul it, upon each and all of the grounds pertaining to that charge of the indictment adopted by reference and made a part of these allegations; upon the additional ground that there is no evidence to show that the defendant Danziger participated in, authorized or had any part in the transaction therein charged. On the further ground that the deposit of this check with the Bank of America as reflected by the evidence does not constitute a violation of the offense sought to be charged and specifically averred in this indictment. We have here again, the situation that it is the contention of the defendants jointly, severally, and separately that if this check was deposited in the mail as alleged in said count it was the act of the Bank of America and

not at the solicitation or request of any of the defendants, and so far as the evidence goes it may have been delivered by hand or foot or bicycle, I don't know what. In any event, not through any of the mediums, and it is not a device such as is set forth in the substantive offenses sought to be set up in this indictment.

I submit the same motion, namely, to quash, annul and dismiss as to the defendant Trinidad International Petroleum, and incorporate by reference the grounds and each of them heretofore addressed in respect to the other counts so far as they may pertain [48] to any of the allegations, the scheme, so-called device as alleged in said indictment antecedent to and as a part of count 7.

I now make a motion—who have we got now, Trinidad?

The Court: You are up to Wake now.

Mr. Rose: I haven't made it in behalf of Wake, have I?

The Court: You covered Trinidad.

Mr. Rose: I submit a motion to quash, annul and dismiss count 7 by reason of and adopt by reference all of the grounds and reasons addressed to the court in the prior motions in so far as they pertain and relate to the acts of omission and commission purported to be set forth in the preceding counts and each of them and made a part of count No. 7.

The Court: Mr. Lucas, you give us the government's legal theory as to counts 1 to 7, which are the Securities Act counts.

Mr. Lucas: May it please the court and counsel, with respect to count 1 it is alleged that the mailing, use of the mails in violation of the statute and in execution of the scheme and in procuring the sale to Mrs. Parsons, that the mail was used in the letter as set up, the letter of May 15, 1940, which says, "Enclosed herewith you will find certificates of Trinidad International Petroleum, Ltd. in your name," and sets them out. Attached to that letter is the air mail envelope, return receipt requested stamped on the outside, together with a number. On the letter itself it bears the legend that it was air mail, registered and a return receipt was requested.

The Court: Where did that come from in the case?

Mr. Lucas: That came into the record and is in evidence and was identified, if I remember, by the witness Mainland, who said he procured it from Mrs. Parsons, the person to whom it was addressed, in the course of his investigation, as a representative of the Securities and Exchange Commission.

It is further referred to in some of the testimony of Mr. [49] Danziger in his sworn testimony.

Now, as to that, your Honor, I hope counsel hasn't confused the court by his statement of the government's position. And may I, with the indulgence of the court, just briefly outline the legal aspect of this?

The law says that whosoever shall devise a scheme to defraud and make use of the mails or of the

instrumentalities of Congress in effecting a sale of a security shall be guilty.

Now, all we have to do is to prove the scheme to defraud.

The Court: What statute are you talking about?

Mr. Lucas: I am talking now about the Securities Act itself.

The Court: It isn't phrased that way.

Mr. Lucas: Sir?

The Court: It isn't phrased that way.

Mr. Lucas: I didn't purport to quote it verbatim, your Honor.

The Court: No.

Mr. Lucas: Let me get it in front of me and speak authoritatively, at least, by reading the law.

The Court: That would have been a good statement of the mail fraud statute, the one you just made.

Mr. Lucas: Let's take 77q itself, your Honor.

The Court: I don't say that we don't arrive at the same result. I am still looking for light. The fact is that the draftsmanship of the mail fraud statute and the draftsmanship of the Securities Act are different in form.

Mr. Lucas: They are substantially the same, only as the word "sale" is used.

When I answered your Honor this morning, I think I was——

The Court: Let's read now the Securities Act. It isn't long. [50]

Mr. Lucas: "It shall be unlawful for any person in the sale of any securities by the use of any



means or instruments of transportation or communication in interstate commerce or by the use of the mails"—

The Court: All right. All we need for the purpose of this case is it shall be unlawful for any person in the sale of any securities by the use of the mails—to do what?

Mr. Lucas: "to employ any device, scheme or artifice to defraud."

Now, I am not going to redwell on the artifice, scheme and device to defraud. I think it has been so thoroughly covered here.

The Court: That is your opening allegation, that is what you have been talking about for two or three days?

Mr. Lucas: Yes. Now, having proven the scheme to defraud, what else must the government prove? We must prove the use of the mail.

We have in evidence the very mailed document, the piece of mail; we have it here; it is in evidence; it cannot be questioned.

Now, then, to connect it with the sale, I take it that it is part of the government's duty to show that the mail was used in furtherance of the scheme in affecting the sale.

The Court: You see, don't you, the difference in the approach by the draftsman of the mail fraud statute and the draftsman of this act? The draftsman of the mail fraud statute started out talking about a scheme, it would be unlawful for anybody to devise a scheme to defraud anybody, and then

to use the mails to do it. That is the approach of the mail fraud statute.

This statute approaches it from the opposite direction. It says: It shall be unlawful for anybody in the sale of any securities by the use of the mails to employ a fraudulent scheme in doing it. [51]

Mr. Lucas: All right. Now we have proved, then, the scheme.

The Court: I am interested to know whether or not the draftsman of this indictment, whether he followed conventional form of indictments under the Securities Act in drawing this indictment? You may not know about that.

Mr. Lucas: I wouldn't know.

The Court: I should think that the draftsman of this indictment would have made the same approach to the Securities counts as the statute does; that instead of starting out with the allegation about the scheme, device, artifice in great detail, that he would have said that: Prior to the dates herein mentioned within the statute these defendants used the mail to sell securities and employed a fraudulent scheme in so doing, to-wit:—then set out what the fraudulent scheme was.

Mr. Lucas: I see what your Honor is getting at. It is the mechanical draftsmanship of the indictment.

However——

The Court: What he did was he followed the standard and conventional form and approach of mail fraud indictments, because that is the way the mail fraud statute does approach the subject,

and he set out all of the scheme, and then he said he employed the mails to accomplish it.

That may be part of Mr. Rose's difficulty, and it may create some difficulties for me. I am not saying that at this moment.

Mr. Lucas: I think if he has alleged a public offense under this statute, whether he got the cart before the horse or the horse in the proper position, if he got the horse and the cart connected, under the law we have alleged the public offense. It makes little difference, as I see it, your Honor, whether he had started out as your Honor indicated the draftsmanship of the act is, [52] or using the manner which he did, if——

The Court: Mr. Rose has been arguing for some time today that that letter back there, the one with the named purchasers, was not fraudulent itself in any respect; it was just a transmittal of a certificate of stock which he had previously been induced to purchase. So, looking at this statute, which says, "It shall be unlawful for any person in the sale of any securities by the use of the mails——"——see?

Mr. Lucas: That's right.

The Court: "——to employ any device, scheme or artifice to defraud."

He said this was not any device to defraud, this letter of merely sending her a share of stock.

He didn't say it, but his argument logically leads to this: If the letter had been a come-on letter, contained some misrepresentations itself, see what

I mean? that that would have been employing a device to defraud.

Mr. Lucas: I see what your Honor means, but I do not think that the statutes, I mean that the courts, either the trial courts or the circuit, have put that construction on it.

The Court: I suppose not from what you have said. I am going to look at the decisions this evening.

Mr. Lucas: I am quite satisfied that the courts have construed——

The Court: The same as the mail fraud statute?

Mr. Lucas: The same as the mail fraud, if the instrumentalities of commerce are used in effecting or bringing about——

The Court: Why not use the words of the mail fraud statute to execute the fraud?

Mr. Lucas: To effectuate or——

The Court: This statute does not use the word “execute” or to effectuate the fraud. It says: It shall be unlawful in the [53] sale of any securities by the use of the mails to employ any device to defraud.

So, to make this statute fit your facts here you have to say that these people got up a scheme, fraudulent scheme, and then they sold securities by mail and they employed that scheme previously gotten up to defraud these people.

Mr. Lucas: Quite right; and used the instrumentalities or used the mail, in this case, to effect the sale. Therefore, when we come to a construction of the mail fraud, we find that the courts have

said if the mails are used after the scheme is perfected but not in furtherance of the scheme, but after it is complete, that the offense is not committed. Therefore, I take it——

The Court: In other words, you think the emphasis on the Securities Act is on the use of the mails——

Mr. Lucas: On the sale.

The Court: ——distinguished from the mail fraud statute where it emphasizes the use of the mails in executing the fraud?

Mr. Lucas: That's right, that is my approach to it, your Honor.

Now, then, in that light, I say to your Honor that when we bring into evidence this letter addressed to Mrs. Parsons in which it says, "Enclosed herewith you will find certificates of Trinidad International Petroleum in your name as follows: \* \* \* Kindly sign the receipt," and so forth, that it is directly within the prohibited provisions or prohibited part of the law, and they are using the mail there directly to effect the sale.

The Court: Making a delivery?

Mr. Lucas: Making a delivery.

The Court: Mr. Rose challenged you on two things. One was something about the Canada mining stocks. You are the one that was challenged; you ought to remember it better than I do.

Mr. Lucas: Mr. Rose challenged me on so many things. [54]

Mr. Rose: I stated Mr. Carter's testimony was in response to a direct question of yours whether he



ever discussed the subject with Danziger of Canadian mining stock, and he said he is quite sure he never did. That is his testimony.

Mr. Lucas: Without being facetious at all, Mr. Rose, in response to the query of the court, whether the testimony is as Mr. Rose remembers it or whether it is not makes little difference, if the government has proven the scheme and device to defraud and has achieved that by all the testimony that is in the record, I am not going to quarrel about some isolated piece or portion thereof. I do not subscribe to any proposition that we are limited to the concoction of the scheme between De Hart for the Great Eastern and Danziger for himself and Wake and Trinidad in that hotel room in New York.

The Court: What was your other challenge, Mr. Rose? Don't tell me you have forgotten it, because I have.

Mr. Rose: I said he charges in some of these counts that these checks were deposited in the mails by the defendant. There isn't a scintilla——

The Court: Yes. What I want to know is how did they get in the case? I have notes, but——

Mr. Rose: They got in the case, your Honor, in this manner: Mr. Mainland produced these checks, and ostensibly he picked them up in the course of his investigation from the banks upon whom the money is drawn, and counsel then proceeded to do this, introduce through the Bank of America clerk—those are the first group of exhibits, your Honor, starting with No. 2, he brought in the clerk of the Bank of America and asked him whether his rec-

ords reflect, for example, here that a check in the sum of a thousand dollars, which is Exhibit No. 1, was presented to the Bank of Manhattan Company in New York and whether they collected the proceeds of it, and he said his records so reflect. I pointed out [55] that there is no proof that any of these defendants ever deposited that check in the mail; assuming that they did do it, I said it wouldn't make any difference, it doesn't violate this Act. Where is his proof that any of these defendants deposited these checks in the mail? I said for all we know they may have thrown them with a rocket or something.

Mr. Rose: At this time, your Honor, on behalf of the defendant Danziger, individually, I move to quash and dismiss count eight upon the following grounds, severally, that said count purports to charge that on January 26, 1939, the defendants place in the mails in this district here to be delivered to Michael Burns a letter of transmittal, including a stock and note certificate, in order to deliver the same after a sale, referring to said stock; and the purported offense designated in said count purports to be an infraction of the law, it is specifically set forth here as Section 5(a) Subdivision (2) of the Securities Act of 1933, and the same nomenclature will be found in the Statute 15 U.S.C. Section 77e Subdivision (a) in Part 20 thereof.

Now, in that connection, Section 5(a) Subdivision (2) relates and pertains to a prohibition re-

lating to interstate commerce in the mails, and reads as follows:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly——”

And Subdivision (2) is:

“to carry or to cause to be carried through the mails or interstate commerce any such security for the purpose of sale or for delivery after sale \* \* \*”

In conjunction with said section, your Honor, there must be, necessarily, considered Section 3(a) of the Act, and its subdivisions, which is an exempted proviso in respect to such acts [56] as are set forth in this Securities Act, unless otherwise specified.

Now, for example, in 17 (a) Section (3), as your Honor will remember, it expressly says that the provisos of Section 3 do not apply to the matters that are proscribed by said Act. In other words, it doesn't make any difference. You discussed here a moment ago, your Honor, with opposing counsel, what are the elements of the offense under that Section 17, Subdivision (1)? It doesn't make any difference if that plan and those acts are committed whether you are registered or not registered, and it expressly throws out Section 3 to which I am going to allude in a moment.

Now, Section 3 of this Act, Subdivision (a) reads as follows:

“Except as hereinafter expressly provided,

the provisions of this Title shall not apply to any of the following classes of securities:"

And then the part that is applicable here is Subdivision (1):

"Any security which, prior to or within sixty days after the enactment of this Title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of such security by an issuer or underwriter subsequent to said sixty days."

In this connection, the undisputed evidence and proofs are that the securities here involved, and which were assertedly sold to Burns, was the privately owned security of the Wake Development Company, that these stocks had been regularly issued as set forth in Section 3, that it was prior to and within 60 days after the enactment of this Title it had been sold or disposed of, that is what happened here, by the issuer. In other words, the Trinidad Company was the issuer, and had issued long prior—as a matter of fact, you have got an additional point that I am making here, your *ex post facto* element to consider—there is no contention that can [57] be supported by any proof in this record that—this particular stock that is involved in count eight had been regularly issued and transferred prior to the enactment of this section, and expressly comes within the exemption features of this Act. In other words, there can be no violation in this transaction. In other words, Wake having lawfully come into possession of the block

of shares, as shown by the evidence here, could without regard to the Securities Act send a part of that or all of it in the mails to Burns, Jones, or anybody else in the universe, and it doesn't constitute a public offense.

Your Honor has in mind, tied into this count eight, none of these preamble accounts of scheme, device, and all that business. That is a separate and distinct count without realleging or adopting by reference anything. And it says that Jacob Morris Danziger, also known as so and so, Warren Carter, also known as—I am not going to take the time to read that, Trinidad International, and Wake Development Company, and somebody else here, a man named Wright, about whom we know nothing up to this point, anyhow, defendants, did on the 26th of January, 1939, in this district unlawfully, and feloniously cause to be carried through the United States mails certain securities; then they describe the particular two certificates, facsimiles of which, or, more accurately, photostatic copies of which are affixed, and set forth as a part of the allegations of this count; and it is contended, as I pointed out, that the transmittal through the mails to Burns in Peekskill, New York, was a violation of this section.

Now, I state, first, that it is requisite for your Honor to entertain and consider the applicability of the fact of the exemptions specified in Section 3(a) of the Act and Subdivision (1), in particularity, and consider the evidence as to the legal status of the securities involved, namely, that the



securities which are here asserted to have been transmitted are by the records shown to [58] have been the personally owned securities of Wake Development Company. There has been no evidence submitted to this court which contends that that is not a fact. The evidence they put on is the testimony, even our friend Mr. Warren here says that in his first discussion with Mr. Danziger, Mr. Danziger said that the particular stock which ultimately found its way into that escrow with that trust company in Delaware was the personally owned stock of Wake Development Company, had been issued prior to the enactment of the Securities Act, and that it did not come under the provisions of the Securities Act at all, and that it was exempted under the Act. Now, this transaction is no different than if I took a certificate of stock in the Edison Company, which stands of record in my name, and I could mail it to anybody, including the sons of Jehovah, anywhere in the universe, and it couldn't constitute a public offense.

Now, the Edison Company stock would not be any different than the Trinidad Company, regardless of what opposing counsel thinks about the characteristics of that company. Here it is sought to charge that the placing of that in the mail, feloniously, incidentally—I don't know why that was put in there, the Act doesn't say anything about felonious or otherwise; the Act says in Section 5, Subdivision (2), as I pointed out:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any

person, directly or indirectly—(2) to carry or cause to be carried through the mails \* \* \*’

On the additional ground, your Honor, there is no evidence to show that these two securities were in fact placed or caused to be placed in the mails by Mr. Danziger. The exhibit and the charging part of the acts and what they are are augmented in this count by attachment of an envelope addressed to Michael Burns with a postmark on the stationary of the Wake Development Company, [59] bearing the signature of the secretary thereof. That is all the evidence we have.

Therefore, on each and all of the grounds submitted, I move that the motion to quash, dismiss and annul said count, be granted as to the defendant Danziger.

In behalf of the defendant Trinidad International Petroleum Company, I move to quash said count, annul and dismiss same as to the defendant Trinidad International Petroleum Company, upon all the ground heretofore submitted in support of the motion in behalf of the defendant Danziger, which grounds I hereby adopt with your Honor’s permission by reference as if they were restated and reiterated to the court on said motion.

As to the defendant Wake Development Company, I move that the said count eight be quashed, annulled, and dismissed on each of the grounds set forth in behalf of the defendant J. M. Danziger, and adopt the said grounds by reference; and the further ground that the transmittal of the securities referred to in said letter are expressly exempted

under the statutes, Section 3(a), Subdivision (1) of the Act, and that there is no evidence to support that in this transaction there was a violation of the statute or statutes, rather, referred to in said count.

At this time, your Honor, I address to the court a motion in behalf of the defendant J. M. Danziger, individually, to quash, annul and dismiss count nine of the indictment upon the following grounds, severally: That in said count it is sought to charge all of the defendants therein named with having assertedly committed a violation of Section 5(a), Subdivision (2) of the Securities Act, 15 U.S.C., Section 77e (a) (2); that said count purports to assert the commission of a public offense, namely, the violation of the sections outlined by reason of the defendants having assertedly on the 18th day of May, 1939, in this district feloniously caused to be carried in the mails Trinidad International Petroleum securities for [60] the purpose of sale and delivery to Florence Lawyer, no registration statement being in effect as to such securities.

Will your Honor look at this indictment, or will it be sufficient if I just mention it?

The Court: Yes.

Mr. Rose: I want to call particular attention to the fact that on line 20, page 26 of said indictment the draftsman has sought to use this particular and specific language, and I made a mental note of it at the time, he says, "no registration statement being in effect as to such securities." I am quite certain it is apparent to your Honor what I have in mind. We won't waste much time in my

giving some expression to the thought I have in mind. Since an allegation of this kind, as we see by the authorities, must be pleaded with particularity, and it must be construed in the language employed, we have in addition to the observations that I have already made about it, the allegation without any alternative that there was no registration statement in effect as to such securities.

It doesn't say as to said securities, the securities sent to Florence Lawyer in Yonkers, New York, but the antecedent to which reference is had by force of the language selected here must logically be interpreted that they were alleging that there was no registration as to Trinidad International Petroleum stock. They don't say that these particular shares that were transmitted weren't registered.

Then we come squarely into the state of the record, independent of all other matters that I have presented, that Exhibit A in evidence here shows that the Trinidad International Petroleum, Ltd., stock was registered with the Securities and Exchange Commission, and that the prospectus was authorized as to such stock, and there is no dispute in this case whatsoever that the Trinidad International Petroleum Company, one of the defendants who they claim committed this violation, contrary to this allegation, [61] did have a registration in effect as to such securities, namely, as to the antecedent of that. They don't say to this particular certificate, they don't even take the



trouble even to describe the certificate; they merely talk of the number of shares.

It shows you when they drew this omnibus indictment there they literally resorted to the process of throwing the book, particularly at Mr. Danziger, and they didn't seem to think that it was incumbent upon them to charge any particular acts.

You can see the way this case has been presented to your Honor here and the constant repetition by opposing counsel of this scheme and plan, all this business and all the sins of Warren and Carter coming down on our heads.

I state to your Honor in support of my motion in connection with this particular count that, firstly, the allegation is completely lacking in supporting evidence, in fact, they themselves, according to the evidence here have shown that a registration statement was in effect concerning the securities.

Mind you, your Honor, I don't want you to think that I am resorting to a little sharp practice here, or something; I want your Honor to know clearly that I am submitting it on that ground, not contending that the securities sold were in fact the securities mentioned in Exhibit A. I want your Honor to have that clearly in mind. I am not pretending to try to submit to your Honor that I am arguing that the shares transmitted, if such is established by the evidence, to Mrs. Lawyer, as alleged in this count, were in fact the securities authorized by Exhibit A. On the contrary, I want it clearly understood by your Honor that my position as to the factual background here is that the



securities referred to in count nine are the securities that were personally owned by the Wake Development Company as a part of their shares of stock in the Trinidad Company, and that by reason of Section 3(a), Subdivision (1) of the Securities Act was exempt from being subject [62] to the charge that this transmittal allegedly violated Section 5(a), Subdivision (2). I am submitting it in addition to the other grounds upon the ground that it affirmatively appears here that the stock referred to in count nine was, in fact, exempt from that Act; but I urge as additional grounds, I hope I am making myself clear, the fact that the charge is not that these particular shares or that particular certificate—they don't mention it here, they just mention the number, and they speak of the shares. On the further ground that the allegations of count nine—I might correct that, the Exhibit attached to it is this letter of May 18?—are insufficient and contrary to the established facts of record and of evidence, namely, that such securities were in fact registered, upon the ground that the photostats which are incorporated and constitute a part of the allegation of count nine show on their face that they were not the act of the defendant J. M. Danziger, that is the act or part of said act of transmittal; nor is there any evidence that he authorized or, in fact, placed the same or caused the same to be placed in the mail as therein alleged. And upon each and all of the grounds I heretofore indicated for the reasons expressed, I move the court grant the motions in behalf of said defendant.

At this time I submit a motion to quash, dismiss and annul count nine as to the defendant Trinidad International Petroleum for the reasons and upon all the grounds heretofore submitted in support of the motion made in behalf of defendant Danziger as an individual, with the same force and effect as if they were reiterated.

I at this time make a motion to dismiss all of count nine, the quashing of said count and annulling of same in behalf of the defendant Wake Development Company, a corporation, for all of the reasons heretofore submitted in support of the motion on the part of the defendant J. M. Danziger, individually, and for the further [63] reason that the documentary and oral testimony here established without equivocation or qualification that the securities inferentially referred to in said count was the privately owned stock of said corporate defendant issued long prior to the enactment of the Securities Act, and clearly within the exemption provisos as established by Section 3(a), Subdivision (1) of said Securities Act.

At this time I submit to the court a motion on behalf of the defendant J. M. Danziger to quash, dismiss and annul count ten of the indictment herein upon the following grounds, that said count purports to charge that all of the defendants named in the indictment did on the 20th day of February, 1939, feloniously cause to be carried in the U. S. Mails certain shares of stock of the Trinidad International Petroleum, and these preferential notes, for the purpose of sale and delivery to Harry F.

Pitts; said purported acts were reputed to constitute and charge these defendants with such acts being contrary to the provisos of Section 5(a), Subdivision (2) of the Securities Act of 1933, and 15 U.S.C. Section 77e, Subdivision (a), Part (2).

In this case we have the similar situation of an allegation that no registration statement being in effect as to such securities as distinguished from the said securities; and I will, with your Honor's permission, adopt all of the grounds and reasons in support of the said motion as to count ten in behalf of the defendant J. M. Danziger as were addressed to the court to an asserted similar transaction in the preceding count nine, as if those matters were restated, and particularly on the grounds that the evidence here shows that the particular securities, even if we are to assume that they are speaking of certain shares as said securities, that the same, necessarily and by reason of the evidence fails to constitute a public offense in that said securities, if any, that were transmitted as alleged in said count ten were and are expressly exempt by reason of Section 3(a), [64] Subdivision (1) of the Securities Act, and by reason of the fact that the uncontradicted evidence in this record shows that said securities out of which these alleged certificates were a part were issued long prior to the enactment of this Act, and that such enactment, even were it not as contended by us subject to the exemptions of 3 (a), Subdivision (1), would be ex post facto for that reason null and void; and on the further ground that there is no evidence to show

that the defendant J. M. Danziger authorized, participated in, or in fact was privy to the placing of this particular letter, envelope and its enclosures in the mail as charged in said count ten or at all.

In behalf of the defendant Trinidad International Petroleum Corporation, I move the quashing, annulling and dismissal of count number ten as to said corporate defendant by reason of and upon all of the ground submitted in support of the motion in behalf of the defendant, individually, J. M. Danziger, as to said count ten, and adopt each of said grounds and reasons, by reference, as if the same were reiterated at this time in support of a motion in behalf of said defendant.

I make the same motion to quash, annul and dismiss said count ten as to defendant Wake Development Company by reason of and upon the grounds addressed to your Honor in behalf of defendant J. M. Danziger's similar motion, as to said count, and adopt similar reasons and grounds stated by reference as if the same were addressed to this court in support of the motion on behalf of this particular corporate defendant.

I now submit to your Honor a motion on behalf of the defendant J. M. Danziger as to count eleven of this indictment, and move the said count be quashed, annulled, and dismissed as to said defendant upon the grounds, one, that the allegations of said count eleven fails to allege the commission of a public offense as to said defendant. [65]

In this regard I submit to your Honor that said count alleges that on October 4, 1939, the defend-



ants unlawfully and feloniously caused to be carried through the U. S. mails certain securities of the Trinidad International Petroleum and the profit-sharing notes for the purpose of sale and delivery after sale to Adeline B. Skinner, no registration statement being in effect as to such security. Said count includes as part of its allegations as an alleged violation of Section 5(a), Subdivision (2) of the Securities Act, 16 U.S.C., Section 77e (a) (2), being a similar transaction in character as the preceding part; upon the grounds that it is not shown or alleged in said count that said securities were subject to the provisos of Section 5(a), Subdivision (2), and so forth, and that the evidence here reflects as to the generalization of such securities of Trinidad International Petroleum that, in fact, they had registered, and in other respects that the purported shares of stock transmitted in this particular transaction as set forth in this count were in fact shares of stock that were privately owned by the Wake Development Corporation, they had by them been acquired prior to the enactment of the Securities Act of 1933, and irrespective of the fact that the Securities Act as to the said securities was ex post facto, that Section 3 (a) of the Act, Subdivision (1), in fact, exempted said securities.

And as to the defendant J. M. Danziger, that said allegations do not constitute a public offense as to him or at all.

I submit the motion on each of the grounds and for the reasons herein stated.



At this time, your Honor, in behalf of the Trinidad International Petroleum Company, I submit the motion to quash, annul and dismiss and set aside said count eleven of this indictment for the reasons and upon the grounds addressed to this court in the motion as to this count in behalf of the defendant J. M. Danziger, and I adopt said grounds and reasons by reference with the [66] same force and effect as if they were reiterated as to the defendant Trinidad International Petroleum Company.

I now move that your Honor enter an order of dismissal as to count number eleven, as against the Wake Development Company, for the reasons and upon the grounds heretofore addressed to the court in support of the motion as to this particular count in behalf of the defendant J. M. Danziger, individually, and by reason and particularly of the fact that the undisputed testimony in regard to Wake Development Company was that it was at all times charged in this indictment handling and dealing with, insofar as that corporate defendant is concerned, with its privately owned securities in the Trinidad International Petroleum Company, and for that reason is expressly exempt under Section 3(a), Subdivision (1) of the Securities Act.

The Court: Now, Mr. Lucas, state your position as to the registration counts.

Mr. Lucas: Very quickly, and I think easily stated, your Honor, Defendants' Exhibit A in evidence, has reference to a registration statement of the Treasury stock of the Trinidad International

Petroleum. It sets up they wanted to sell one hundred thousand shares of Treasury stock at \$5.00 a share to be paid in cash in currency of the United States or Canada.

Page 9 of that sets up what is going to be done with the money, how it is going to be handled, the money that will accrue after the payment of the brokerage commissions, I believe, for \$400,000.00 to be used by the company. That is Treasury stock.

What we charge is that the Wake Development Company was selling to the public in Pennsylvania, Ohio, New Jersey, Massachusetts, part of its stock for which there was no registration on file, that they were issuing it, and that under the law they had to have a registration statement on file before they could sell and issue it. It is very simple. The issue that is referred to [67] there is 100,000 shares of the Treasury stock of the Trinidad at a fixed price. What we charge them with doing is selling an altogether different stock at a different price, under different conditions, and not having any registration on file covering it or concerning it.

Now, Trinidad is involved because Trinidad through its president signed Trinidad stock certificates, through its secretary signed Trinidad stock certificates, aided, abetted and assisted the Wake Development Company and its common president, Mr. Danziger, in putting that deal over. So that part is very simple.

The indictment alleges that the securities were sold in violation of the registration provisions of the Securities Act. Trinidad Corporation did in

1934 file a registration statement with the Securities and Exchange Commission. Under that statement Trinidad proposed to offer 100,000 shares of the common Treasury stock for \$5.00. That statement became effective and the offering as described in that statement and the prospectus in connection therewith could have properly and legally been made. That offering by that issuer at that price and of that stock was not made.

Mr. Rose: Are you reading from the indictment?

Mr. Lucas: No, I am not.

The last sentence of the Securities Act of 1933 specifically provides that:

“A registration statement shall be deemed effective only as to the securities so specified therein as proposed to be offered.”

The violations alleged in the indictment involve sales by Wake Development Company of Common Capital stock and preferential profit-sharing notes which are not mentioned in that registration statement, issued by Trinidad International Petroleum in units of one share and one pound note, at an offering price of \$3.00 in cash plus certain shares of other defunct corporations. [68]

These shares and notes were owned by Wake, and the stock was not Treasury stock of Trinidad.

Furthermore, the proceeds of the sale were intended to be retained and were retained by Wake Development Company, no registration statement was ever filed covering shares and notes sold and delivered by Wake as alleged in the indictment,

and it is very quickly and easily said. Trinidad comes into the deal not that they issued them directly, but through their president and secretary participated in it, aided and assisted by the signing of the certificates.

There is one thing I do want to call the court's attention to in connection with this count, with one of these counts, count eleven. There is not, as the court can see, a photostatic copy of the shares of stock and profit-sharing notes. We were unable to provide them. We have in the evidence the carbon copy of the letter that is attached to the indictment procured from Mr. Danziger in which he says he is sending them. Mr. Carter says he sold them, and Mrs. Skinner was here and says she received them. So, I take it we have met the full measure of proof. I did, however, want to call that differentiating fact to the court's attention.

The Court: What section of the statute do you rely on?

Mr. Lucas: We are relying on Section 77e as it is found in your book there, your Honor, Subsection (2).

The Court: What page?

Mr. Lucas: Page 436.

Mr. Rose: That is the same as 5 (a). You charge them in both forms in your indictment.

Mr. Lucas: It says:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, to carry or cause to be carried through the mails [69] or interstate com-

merce by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale."

The Court: What about the exemptions, Mr. Lucas, that Mr. Rose mentioned?

Mr. Lucas: It is an elementary principle of law, both in Federal and State, that in pleading an offense or charging criminal offense the indictment does not have to plead the exemptions.

The Court: I know, but what is the fact about the exemptions that he relies on?

Mr. Lucas: The exemption, I gather from following counsel's argument, he says it is exempted because this registration statement here refers to the same stock.

Mr. Rose: No.

Mr. Lucas: I don't follow him.

Mr. Rose: Then I don't think you understand the point at all. Shall I repeat it to him?

The Court: Repeat it to me.

Mr. Rose: My point in referring to Exhibit A, Mr. Lucas, was picking out a particular nomenclature in the charging part of the indictment, instead of referring to said shares it says, "such securities." That was merely an incidental point. If you paid any attention, I particularly indicated to his Honor I didn't want his Honor to get the impression I was quibbling here or trying to raise the contention that his shares actually involved in these counts were the shares that were specified under this registration. My contention is that the uncontradicted evidence, the documents that you



introduced in evidence, expressly points out that this is not Treasury stock. It is the privately owned stock of Wake Development. Carter testified here as your witness in support of your case that at the beginning of this meeting there was a discussion had that these particular securities that were sought to be [70] sold was the privately owned stock of Wake Development Company, and the shares that they had acquired in a lawful and legal manner as their personally owned stock, and for that reason said shares were exempt under—if you will read the Securities Act—Section 3 (a), Subdivision (1).

The Court: What page is that on my book?

Mr. Rose: Your Honor, I haven't it. I think it is 77q—it is either (c) or (d), your Honor.

Mr. Mainland: (c).

The Court: What page, Mr. Mainland?

Mr. Lucas: That is "securities exempted," page 432.

It is very simple, your Honor, as long as Wake Development Company had these shares of stock, this 165,000 shares and kept them and didn't attempt to make a public offering of them, we do not contend that they had to be registered, any registration statement on file, as long as they had those shares of stock; Wake Development Company had received them three or four or five years beforehand.

The Court: Start again, please.

Mr. Lucas: As long as Wake Development

Company kept their shares, of course they didn't have to file a registration statement; but when it began selling those shares as provided here they couldn't sell them legally without violating the law until they put a registration statement on file. That they never did.

The Court: I have never worked with this statute particularly, although I do know that the S.E.C. like every other agency, wants to broaden its authority as much as it can. That is one of the problems of modern government.

Mr. Lucas: Quite true.

The Court: And probably includes Federal courts, although they have been held pretty closely within bounds. Within recent months, for instance, I have had the claim presented to me in my own district that a sale of real estate contracts is a security [71] within the meaning of the Securities Act, see? That would be pretty poisonous to you Southern California people, when you get around to capitalizing on your climate, as soon as the war is over. If you found that every time a fellow wanted to make a fast deal up the street here on a piece of property, that it had to be registered with the Securities and Exchange Commission, you couldn't sell a piece of property half-a-dozen times a day, under those provisions.

So, I am not just going to pass over this question maybe as quickly as justified, just because of my natural caution about claims of all modern governmental agencies to broaden their jurisdiction.

I haven't worked much with the Securities Act, so that is another reason why I am cautious.

Is it the general claim that every security which is sold—I am not using the word “traded in”—every security which is sold must have been registered by somebody at some time?

Mr. Lucas: If you are going to adopt an analogy or illustration, such as Mr. Rose used here about the sale of some privately owned Southern California Gas stock, no, of course not. Here the Government is interested in this because we don't have to have any fraud, scheme or design, or anything, we just have got to have a public offering.

The Court: Where is that in this statute? Where is the reference to public offering in this statute?

Mr. Lucas: These offerings or public sales are provided in here——

The Court: Where is that in this statute? Where is the distinction between a public offering and a private sale in this statute?

Mr. Lucas: The point is this, that is where we get back to this exemption thing; every sale must be registered as it says here, unless you come within the exemption. And if you come within [72] the exemption, you should be able to put your finger on it and say, “I am exempt under this one.” The defense comes along now and says they are exempt because there was a registration covering that.

Mr. Rose: You are missing the point entirely. You are attaching a lot of importance, Mr. Lucas, to a very technical point that I addressed to the court, and you are missing the point that his

Honor is talking about here, and upon which I relied principally.

The Court: The distinction is made in the early blue sky act as to what is a public offering and what is not, how extensive an offering had to be to be a public offering, and whether the security was a private holding.

Mr. Rose: With your Honor's permission, I failed to point out to your Honor that Section 4 of this Securities Act states, "the provisions of Section 5"—that is a funny set up; they set it up before they come to Section 5—"The provisions of Section 5 shall not apply to any of the following transactions: Transactions by any person other than an issuer, underwriter or dealer;"

My point is that there you have their own Act. Wake Company was in this transaction, they were neither an issuer or an underwriter, and they were not a dealer; they were selling their privately owned stock, that is the state of the record, and they can't get around it or behind it. Although I like to apply the broader view that your Honor has indicated, and as counsel is trying to point out, it would be all right if Wake hung onto that stock, but, good heaven's, if they ever mail a part of it and put it in the mail to anybody, why, it is too bad, they have committed a public offense.

Mr. Lucas: Of course to say what the Securities and Exchange Commission would or would not do under a given set of circumstances is hard to prophesy about; but it certainly could not overlook the fact that Wake Development Company

was holding 165,000 shares of stock that had been issued to it two or three years prior [73] to the going into effect of the law, we will say, and it was holding it in that issued state. But it became an issuer within the meaning of this law the minute it began selling it, and the law says the sale of every security shall be premised or prefaced by a registration statement unless it comes within the exemptions.

The Court: How are private sales taken care of?

Mr. Lucas: Private sales are taken care of in one sense here. But I want to answer counsel when he says they weren't an issuer.

“The term ‘issuer’ means every person who issues or proposes to issue any security; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term ‘issuer’ means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued”

and it goes on with a lot of exceptions.

That is found in your volume on page 129.

The Court: I don't know how the reporter did, but you talked too fast for me.



I want to talk about what I am interested in, not what you and Mr. Rose are interested in.

Mr. Lucas: Pardon me, your Honor. I didn't mean to ignore you.

The Court: Where is the exemption that said the sale of [74] private stock is exempted.

Mr. Lucas: You won't find it in this section in the words that your Honor apparently is seeking. You won't find it set up that way.

The Court: Well, suppose I took Mr. Rose's case, suppose I wanted to sell some Southern California Gas?

Mr. Lucas: You go ahead and sell it.

The Court: Why?

Mr. Lucas: You are permitted to. You are not an issuer, you are not making an offering, you are not making a public proposition, and the stock has been registered when it was sold to you; or if it was registered long prior to the Act, you go ahead with the private sale.

The Court: Now you are getting around to what I asked you 10 minutes ago. If it is not the Securities and Exchange Commission's position that any security must have been registered by somebody at some time, that is sold?

Mr. Lucas: Let's state it this way:—

Mr. Rose: Ask Mr. Mainland.

Mr. Lucas: If it were issued within 20 or 30 days prior to the going into effect of this Act they didn't have to reissue—

The Court I am not discussing that question of the fact that these people became the owners

of this before the Act came into effect. That is a fact, isn't it?

Mr. Lucas: True.

The Court: That isn't what I am talking about at all. Forget that.

Mr. Lucas: Then I misunderstood you.

The Court: This Act went into effect in '33, didn't it?

Mr. Lucas: Yes.

The Court: Suppose they got this stock in '34 under the circumstances they did, this Wake stock?

Mr. Lucas: Then it would be the position—if the Wake stock was issued, if the Trinidad stock was issued to Wake in '34 in the manner in which it was issued, it would have to receive the approval of the Securities and Exchange Commission. I am talking now of the 165,000 shares that Wake got.

The Court: That is just what I want to get at. I have heard this discussed in the profession; it is not entirely a new question to me.

Mr. Lucas: Mr. Mainland has pointed out to me the provisions of Section 4 under the caption "Exempted Transactions", and thinks it will answer your Honor's question, which provides as follows:

"The provisions of Section 5 shall not apply to any of the following transactions: Transactions by any person other than an issuer, underwriter or dealer;"

Now then, to check that through we have got to go back into who is an issuer and who is an underwriter and so forth, and we get into a very technical

field, and the court is bound by the statutory definition of those persons.

Now, transactions by an issuer not involving a public offering, we have some room for a difference of opinion there, an honest difference of opinion as to whether such a deal whereby Wake got this 165,000 shares wouldn't be in under that. It may be under a proper construction of this section that would be an exemption.

The Court: Let's keep what happens to be the point that I am interested in right now. It is not an unfamiliar transaction, I am not taking any sides now on what was done here, but it is not an unusual transaction—in fact it is very common, I know of nothing more common in the profession than for a man to acquire some stock at the organization of the company when he turns in something that everybody feels is of some value; that is just as ordinary as [76] riding on a street car to your work nowadays. There is hardly a country lawyer in the United States that hasn't organized a corporation and had some people turn in some stuff and take some stock for it. All right. After they get it, does every Tom, Dick and Harry in the United States, every little fellow of one hundred thirty million people in every one of the 48 States, regardless of the size of the transaction, after he has got that stock, does he have to go to the Securities and Exchange Commission and register it before he can sell it to his neighbors?

Mr. Mainland says no.

Mr. Lucas: I don't think so. But when it is

offered in the manner in which it is offered as set forth by the testimony here——

The Court: I just want to get the emphasis placed here. If that is where you are going to put the emphasis, on how he disposes of it, his own private stock after he has it, then I want you to show me in the statute where that distinction is made. I want you to talk to me now as if I were a pretty resentful small town lawyer, one of the many millions in this country who think they are being overgoverned by a whole lot, and who has just been told that he had done something wrong when he had made a deal for some very plain simple client in his community in organizing a corporation with a minimum capital stock authorized by the laws of his State, who turned in a little piece of property or a patent, or something like that, and when he told his client he could go out and sell a little piece of it to his neighbor for \$500.00, had just been told that he couldn't do that without getting it registered with the great white father in Washington, and making up all those forms. Now, what I want to know is does the emphasis come on the amount of stock that he wants to resell? Nobody can criticize him for acquiring stock in that way, that is his own business, the laws of his State permit him to do that; I think it could hardly be [77] claimed that the S.E.C. has supervisory authority over that initial transaction, one man converting a little piece of property he has into corporate form for reasons of his own, that is nobody's business if he wants to do it that way. He

takes some stock back, then, in exchange, and then when he has it a neighbor says, "Bill, I will give you \$500.00 for a third of your interest in that thing, maybe something will come of it some time," and he says, "All right," and they make the deal. I will be surprised if the S.E.C. claims under this Act that that initial transaction has to be subject to its supervision in any way whereby he incorporated his little project and took the stock for himself.

Now, then, passing, that, is this sale that he made to his friend, is that unlawful unless he got it registered? Or is it when he set out to everybody in town and ran an ad in the paper and said, "I have got this stock and I offer it to whoever will come and take it away"? Is that where the emphasis is?

Mr. Lucas: Well, bearing in mind that we have all had some experience, as you say, with the various governmental agencies and the very human desire, I take it, on the part of every agency, and sometimes the courts, to show a jealous regard for their jurisdiction and to want to uphold their jurisdiction, we know that the Securities and Exchange Commission probably wants to assert and hold the jurisdiction to the extent that it possibly can, and within the limits of this Act, and I would say that in my opinion—and I am frank to say to your Honor that I am touching the Securities and Exchange Act for the very first time—I in my very limited reading and study of it here would say that your Honor's proposition or illustration is within the reach of



the Securities and Exchange Commission under this Act.

Now, that brings us to whether or not they may want or feel, as a matter of policy, that they want to assert it, their rights under it, or assert their jurisdiction in a particular case. [78] But if that isn't a private transaction as lined up here, if it isn't a public offering, if it isn't this or if it isn't that, it has to be something else, and I would say that when that man assumed by your Honor by his illustration began to make a public offering of it, and as we have shown here an indiscriminate offering through representatives throughout the various States, that it is clearly—

The Court: Where does the statute make that distinction, which is the distinction that the State Securities statutes make between public and private offerings?

Mr. Lucas: It is only by reading these exemptions. That is the very difficult part of this whole procedure.

The Court: In other words, you think the approach is this: that every sale of stock—we will use the much abused words “*prima facie*”—that every sale of stock which hasn't been listed by somebody is *prima facie* within the Act?

Mr. Lucas: Every sale must be registered. I think it starts out with that premise, essentially, that every sale must be registered, every issue must be registered, rather. The statute gets into transactions and issues, if the court please, that is the way the statute runs. We talk about registering

of an issue and registering of a transaction, exempted transactions and exempted issues; but, generally speaking, I think we can start with that premise, that every issue must be registered, then, except if it is exempt, and the defendant or the particular person charged must prove himself to be within the exemption. Then if we come to the transactions, we discuss the transactions and I think generally speaking we can say all transactions must be registered except, and then we have the exemptions.

I think that is the general trend and force of this entire enactment. [79]

#### ASSIGNMENT OF ERROR NO. 8

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you what has been marked heretofore as Government's Exhibit 41, for identification, a document on the letterhead of the Great Eastern Natural Gas Company, and ask you if you have ever seen a facsimile of that?

A. Yes, I have seen a facsimile of this form letter.

Q. Is that one of the documents about which you have been testifying?

A. This is one of the documents used in the series of build-up letters that were used on the Great Eastern Natural Gas stockholders.

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: The answer and the question are both stricken. Ask the question again.

Q. By Mr. Lucas: Was that part of the literature that was mailed out—first was that part of the literature that was prepared by you and Mr. Danziger and mailed out to the Great Eastern stockholders?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness.

The Court: You may answer.

A. At the time of my meeting with Mr. Danziger, my last meeting referred to, we discussed the various letters that we would create in this sales campaign and use in our stock selling plan, and one of the agreements that we entered into was that Mr. De Hart would send one letter from the Great Eastern Natural Gas Company of Wilmington, Delaware, which would, in sum and substance, confirm the various letters that I have described [80] heretofore coming from the Trinidad International Petroleum Company, and would sort of confirm the situation.

At the time of my talk with him we talked about what this letter—how this letter should be written, and we came to certain agreements about it. I can't tell you now whether this letter was entered into between he and I at that particular meeting, but at one of our meetings we did agree on this letter.

Mr. Rose: I move that be stricken, your Honor, as a conclusion of the witness.

The Court: Motion denied.

Q. By Mr. Lucas: And was it afterwards sent out?

A. It was.

Mr. Rose: Just a second. I object to that as leading and suggestive, no proper foundation laid.

The Court: He may answer. Answer again.

The Witness: This letter was sent out to all of the stockholders of the Great Eastern Natural Gas Company at various times.

#### ASSIGNMENT OF ERROR NO. 9

The Court erred in overruling the objection on behalf of the defendants to the receipt as a Government's Exhibit in evidence the exhibit identified as follows:

Mr. Lucas: I now offer this exhibit in evidence, it having been heretofore marked 41, for identification.

Mr. Rose: Objection is had to this document on the grounds, severally, that no foundation is laid to show that this particular form of communication was, in fact, ever exhibited to any of the defendants on trial; there is no foundation laid as to when and where it was prepared, nor by whom. And in support of these objections I indicate to the Court that this form of document appears to have the mimeographed date of October 28, 1935, concerning [81] which the testimony in this record reflects that it is at a period when Mr. Danziger was in England, and he was there long prior to the date of

this letter, and remained there for almost two years thereafter, and that the same is incompetent and not binding on the defendants. This is an act of the Great Eastern Natural Gas Company.

The Court: I think a few dates would be handy now. He had his first talk with Mr. Danziger when, Mr. Lucas?

Mr. Lucas: July.

Mr. Rose: That is not so. It was the early part of 1935 as this witness testified.

Q. By Mr. Lucas: When was your testimony as to the date you met Mr. Danziger for the first time in New York?

A. I couldn't be specific about that date, but it was the early part, my first visit with Mr. Danziger at the time I spoke about the South American oil fields was in the early part of 1935.

Q. What do you mean by the early part?

A. Well, the early part might have been April.

The Court: Does he know when?

The Witness: I can't be specific on that particular date.

The Court: Does he know when Mr. Danziger went to Europe?

Q. By Mr. Lucas: Do you recall approximately when Mr. Danziger went to Europe?

A. I think Mr. Danziger went to Europe either in July or August.

Q. Of '35?

A. That is to the best of my recollection.

Mr. Lucas: We are offering it on the testimony of the witness, who said that it was a part of the



scheme that was talked over by Mr. Danziger and this witness before he left for Europe, and was to be sent out and was sent out, and this exhibit comes into the record and is here for identification through the testimony of [82] the witness Skinner, I believe.

Mr. Rose: Your Honor, counsel is frequently speaking of schemes, schemes, and schemes. Your Honor has heard the testimony of the witness, and we are familiar with it. My objection goes to the fact that as I have indicated, without repeating myself—the objection has not been passed on—this is not an act of the defendants.

The Court: It is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Clerk: 41, for identification, in evidence.

#### ASSIGNMENT OF ERROR NO. 10

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. All right. Did you avail yourself of the services of this man Franklin or Kramer?

A. Yes, I did. Kramer and I had an understanding between us that we would split——

Mr. Rose: Just a minute. I object——

Q. By Mr. Lucas: Never mind about your understanding with Kramer. If it is some private deal between yourself and Kramer, we are not interested.

Did you avail yourself of his services?

A. Yes, I did.

Q. And did he make any sales?

A. Not immediately.

Q. When was his first sale?

Mr. Rose: I object to that as irrelevant and immaterial, and not constituting any issuable fact.

Mr. Lucas: It is a preliminary question, your Honor. [83]

The Court: He may answer.

A. I can't tell you which salesman made the first sale, but there were a number of sales made.

Q. I am talking about the first sale by Franklin or Kramer, do you remember that?

A. Yes, I do.

Q. To whom was it made?

A. The first sale made by Franklin was Elizabeth Pierce.

Q. Where did she live?

A. South Amboy, New Jersey.

Q. Do you recall the amount of that sale?

Mr. Rose: Object to it as irrelevant and immaterial.

The Court: Is that one of the names?

Mr. Lucas: No; that is a preliminary matter, your Honor.

Mr. Rose: Your Honor, we have so many preliminaries here. I want to stay within the scope here of the matters that are purportedly in issue here. We can't sit here and be held to account for all the trespasses and sins of every person in the United States. Whatever transaction Kramer

or Franklin had in 1935 with Pierce is certainly not the subject of any matter that your Honor is going to be called upon to review here.

The Court: What are you leading up to?

Mr. Lucas: This, as already indicated, is the first sale after the devising of this scheme. We affirm it was called to the attention of Mr. Danziger. It is the first transaction, and while it is not charged in the counts, we deem it as very definite proof of the scheme that we allege was concocted, and about which we have already testimony, and urge it for that reason, your Honor. I don't want to lay too much stress on it, and I will pass as rapidly as I can to the count witnesses, but inasmuch as it is one of the first sales I would like to go into it.

The Court: Was it made, by the way, before Mr. Danziger [84] went abroad?

Mr. Lucas: It was probably initiated before he went abroad. It was called to his attention before he left for Europe.

The Court: Proceed.

The Witness: The first sale made was to Elizabeth Pierce in South Amboy, New Jersey, for \$600.00.

Q. By Mr. Lucas: Now, tell us what was said between you and——

Mr. Rose: Just a moment. What was the question?

(The question was read.)

Mr. Rose: Your Honor, I object to this on the

ground there is no proper foundation laid, it is too remote, and it doesn't pertain or relate to anything of which we are cognizant.

The Court: He may answer.

Mr. Rose: May an exception be noted, your Honor?

The Court: Exception.

### ASSIGNMENT OF ERROR NO. 11

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. All right. Then did Kramer go back to see this woman that you know of?

Mr. Rose: Objected to as leading and suggestive, hearsay, no proper foundation laid, and immaterial and irrelevant to any of the issues in this proceeding.

Mr. Lucas: The question can be answered yes or no.

The Court: He may answer.

A. Yes, he did.

Q. By Mr. Lucas: All right. Did he make a sale?

Mr. Rose: I object to that as immaterial.

The Court: He may answer. [85]

A. Yes, he did make a sale in the amount of——

Mr. Rose: Just a moment. I object to it as a conclusion of the witness, no foundation laid that he was even present.

The Court: He may answer.

A. He did make a sale of 2,000 shares of Trinidad International Petroleum stock and notes.

### ASSIGNMENT OF ERROR NO. 12

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: Did you hear from Mr. Danziger in response to your cable?

A. I got a cable back from Mr. Danziger, I had several back from them, one of them stated to use my own judgment and to go to any length I thought was necessary in protecting the matters.

The Court: Do you have the cable?

The Witness: No, I don't have the cable. I am just remembering it.

I then wrote Mr. Danziger in detail about this matter.

Q. By Mr. Lucas: Tell us, in substance, what your recollection is about what you communicated to him.

Mr. Rose: I object to it on the ground it is not the best evidence.

The Court: Does he have a copy of the letter?

Q. By Mr. Lucas: Do you have a copy of the letter?

A. No, I wrote it in longhand. I didn't keep copies.

Q. By Mr. Lucas: Go ahead.



A. I wrote him that some time after he left, Mr. Kramer had visited Mrs. Elizabeth Pierce and, to the best of my knowledge, had obtained approximately \$35,000.00 worth of American Can preferred and common stock, and that the way I had found that out was that he [86] had an engagement with me to call on Mrs. Pierce, which he had broken. And then when I called him and tried to get him to keep the appointment with me, he evaded the issue and said he would meet me at Mrs. Pierce's house in South Amboy, and to park my car outside, and that he would go in there with me and call on Mrs. Pierce. He didn't show up, and I came back to New York and I wrote him and told him. I then called Mrs. Pierce on the telephone, and without her knowing who it was, she quickly said, "Oh, is this you, Mr. Kramer?" And she said, "I have been worried about matters. You know, someone else has been trying to get me on the telephone, and I didn't know what you wanted me to tell them." And then I said, "Did you tell them about the securities that you gave me?" And she said, "Oh, you mean about the three hundred shares of American Can?" I said, "Yes, that's right." And she said, "No, I didn't tell them a thing." And I then further told Mr. Danziger that that was the way I had found out that Mr. Kramer had been there and obtained this amount of securities; that after I had ascertained this, I came back to New York and called the Shearer office on Wall Street and asked for Kramer, and was told that he was not around.

## ASSIGNMENT OF ERROR NO. 13

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: I didn't understand from your testimony, Mr. Carter, whether——

The Court: He met him in the lobby of the hotel.

Q. By Mr. Lucas: No. On this Edwards transaction, whether this money, these three or four or five thousand dollar checks you are talking about as having sold transactions with Mrs. Parsons, whether that money was sent to Los Angeles or received by you? [87]

A. The first sales that were made to Mrs. Parsons were made by me personally, the first three sales that were made were made by me personally. I sold the Trinidad International Petroleum stock by telling her that I had a connection with the Trinidad International Petroleum people, and that I represented their fiscal agent the Wake Development Company. I told her that my name was Edwards, and that as a result of my connections I was in a position to allow her to buy this security and to give her a certain number of shares of stock in that company. I showed her all of the literature which I had in my possession, which I had received previously on the Great Eastern deal, to substantiate the fact that I did have some connection with the company. And at that time I wrote in detail

to the Wake Development Company office, Alda Faulkner, and told them what I was doing.

Mr. Rose: Just a moment. I now move the Court that the answer of this witness be stricken on the following grounds, severally: One, that there is no foundation laid to show that this witness was ever authorized to make the declarations and statements he now asserts to have been made to a Mrs. Parsons at occasions when Mr. Danziger was in London and the corporation's representatives were out here in California; that the same is hearsay, that any of the antecedent understandings or advices or directions asserted and testified to by this witness antecedent to these conversations, necessarily do not authorize the statements and declarations this witness asserts to have made outside of the presence and without the knowledge of the defendants, and for that reason they are hearsay and incompetent.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: Now, tell us to the best of your recollection all you said to Mrs. Parsons and anything you showed her. [88]

A. I showed Mrs. Parsons a paper which I had received from London from Mr. Danziger, and I believe the name of the paper was The London Financial Times or News, or something like that, I don't remember the exact name, Mr. Danziger sent me quite a few papers from London, telling me that I would know how to use them in the sale

of Trinidad stock. And I showed her a number of stocks in the oil list of this paper which had the name "Trinidad" connected with them; one of them was "Trinidad Apex", the other one was "Trinidad Leaseholds", and the other one was—several other Trinidad stocks, and I told her that the company that I was selling her was headed by a former group of people of the Pan American Petroleum & Transport Company, and the Mexican Petroleum Company; that the stock had in former years a very high rating; that all of these men that were formerly connected with the Mexican Petroleum Company and the Pan American Petroleum & Transport Company were now directing their efforts toward the exploitation of oil in Trinidad, British West Indies, through this Trinidad International Petroleum Company; that the President of the company was now in England attending to the financing, large financial operations for the company; that I had personally been in touch with him numerous times; that I knew him personally, and that I was doing certain work for the company; and that these shares which I was allowing her to buy was an inside arrangement, and the price she was getting would be considerably lower than what the stock would be sold for on the London securities market.

Q. All right. In this Parsons transaction, were you taking any stock in from her?

A. Yes, I took in 3,000 shares of Lamaque Contact gold stock.

Q. Do you recall any others?

A. I took in another stock which she owned, which had no market value, called Golden Quebec Mines Limited. [89]

Q. What credit arrangement, if any, was allowed her on that?

A. I allowed her a credit, as near as I can remember now, of \$500.00 for her Golden Quebec stock providing she paid \$500.00 in cash on a thousand dollars worth of stock, at the rate of \$7.00 a unit.

Q. After Mr. Danziger returned from Europe, did you make another sale to Mrs. Parsons?

A. No, I didn't make a sale.

Q. Did someone under your direction contact her?

Mr. Rose: I object to that as leading and suggestive, calling for an opinion and conclusion of the witness, not the best evidence.

The Court: You may answer.

A. I arranged to have a sale made.

Q. What did you do now?

Mr. Rose: I object to that as calling for hearsay.

The Court: You may answer.

A. When Mr. Danziger came back from England, or previous to the time that Mr. Danziger had come back from England, he had written me about his desire to put over a nice sale upon his return to New York, and he further asked me if there wasn't something that I could do further in the Parsons matter; that he would be very willing to cooperate and help in any way that he could. So when he did come to New York, I brought the



subject up that I had made an arrangement to have a salesman call on Mrs. Parsons and make a sale. I told him that I had made so many visits to Mrs. Parsons during the course of several sales to her, that I had exhausted my own imagination to create any more sales talk, and that I figured that it was a good idea if I interjected a new personality into the picture.

I told him I had found a man by the name of Joe Robbins, who I thought would be just the type of man that would appeal to [90] Mrs. Parsons. I told him that we had talked it over and decided that Mr. Robbins would go up there and state that he was a direct representative of Mr. Danziger's from England, and that he represented a financial agent of Mr. Danziger's by the name of A. R. Winslow, and that Winslow had an option or controlled a selling group of a certain number of shares of stock, and that she could purchase a block of that stock, which would be considerably below what the stock was selling for in the English markets. As a matter of fact, we had some receipts made, printed, under the name of "A. R. Winslow".

Then Mr. Robbins went up and made the sale and came back, there wasn't any definite amount set on, the idea was to make the sale for \$10,000.00, but when Mr. Robbins came back he had a check for \$7,000.00 made payable to A. R. Winslow, who was supposed to be the fiscal agent.

## ASSIGNMENT OF ERROR NO. 14

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: I show you, Mr. Carter, after having first shown to counsel, a check dated February 25, 1937, drawn on the Miners National Bank, Pottsville, Pennsylvania, Pay to the order of W. E. Edwards \$1000.00, signed Elizabeth Parsons, and ask if that is one of the checks which you referred to a while ago.

Mr. Rose: Now, just a minute. I respectfully submit that it is wholly immaterial, because the check on its face shows that it is made to one W. E. Edwards, who collected the proceeds of said check, and it is a transaction, manifestly, that occurred while Mr. Danziger was in England, and is wholly irrelevant and immaterial and not binding on the defendant.

Mr. Lucas: We offer it in corroboration of the witness' [91] testimony that he did have these transactions with Mrs. Parsons, and the check is further proof——

Mr. Rose: Then you have a charge against this witness, but it isn't contended that these proceeds came into the hands of any defendant now on trial. It is not a transaction referred to in the indictment, and we do not seek to be obligated or bound by the hearsay and out of the presence transactions of this witness.

The Court: They are admitted.

Mr. Rose: May an exception be allowed?

The Court: Exception is allowed.

### ASSIGNMENT OF ERROR NO. 15

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: Mr. Carter, do you remember a woman by the name of Florence Lawyer?

A. Yes, I do.

Q. Did you ever call upon her?

A. Yes, I did.

Q. Do you remember her address or where it was she lived?

A. I think she lived on Odell Avenue in Yonkers.

Q. Do you remember approximately the time that you talked with her?

A. No, I don't remember the specific time. If I saw anything that pertained to the——

Q. Did you have a business transaction with her?

A. I participated in a transaction with her with the Wake Development Company.

Q. Just tell us when you saw her, to the best of your recollection, and what you said to her and what business transaction you had. [92]

A. Well, she was a stockholder in the Golden Quebec Mines Limited, and I called on her at her home and told her——

Mr. Rose: Just a minute. I am going to object to that on the ground it is hearsay.

The Court: When is the alleged date of this transaction?

Mr. Lucas: Part of the allegations of the indictment, your Honor.

The Court: Go ahead.

The Witness: I called at her——

Mr. Rose: Your Honor has overruled the objection?

The Court: Correct.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I called at her home in Yonkers and told her that I represented a Canadian concern, to the best of my recollection, and that I understood that as a stockholder of the Golden Quebec Mines Company she had exchanged the shares of the Golden Quebec into the Trinidad International Petroleum Company, who had made an offer to the Golden Quebec stockholders to exchange such shares. She told me, "Why, no, I haven't done anything like that." She said, "This is the first I ever knew about it."

I said, "Well, that's surprising. I thought the Trinidad International Petroleum Company had made all the Golden Quebec stockholders aware of the fact that they would trade in the shares for Trinidad International Petroleum."

I proceeded to tell her a story about the Golden Quebec Mines Company going into receivership, and that the stockholders of the Golden Quebec Mines Company would probably or had received a certain right to exchange their shares, because a

group of men that were interested in the Trinidad International Petroleum Company were interested in purchasing the properties that they owned in Canada. She said, well, she hadn't heard anything about it. I [93] told her that the value of the stock was \$5.00, its par value, and the notes could be sold around \$4.80, which was equivalent to the par value of the pound sterling at that time; and that as a representative of the Sterling Securities Company in Toronto, I would like to buy the notes if she had them, but as long as she did not have them, well, the only thing I could suggest to her was to write to the Wake Development Company in Los Angeles and find out why they had never exchanged the notes—or the Golden Quebec Mines stock.

Mr. Rose: Just a second. What was the name of the representative of Sterling and what?

The Witness: Sterling Securities Company.

Q. By Mr. Lucas: Proceed, Mr. Carter.

A. She told me that she certainly would do that by all means, and she thanked me very much for calling on her.

I am not positive, but I believe I used the name of Roberts.

Mr. Rose: I move that be stricken, your Honor.

The Witness: (Continuing) My memory is a little vague. I used a good many names, and I haven't looked at any of the correspondence in the matter, and I haven't refreshed my mind at all; I am just trying to remember.

Q. By Mr. Lucas: All right. Go ahead. Did you see her again?



Mr. Rose: Just a moment. I address a motion to the Court.

The Court: Motion denied.

Q. By Mr. Lucas: Proceed, Mr. Carter.

A. That was the only visit, to the best of my recollection, that I had with Mrs. Lawyer. However, I did telephone her three or four times afterwards at New York City.

Q. Can you recall anything you said to her or that she said to you? [94]

A. When I came back——

Mr. Rose: Just a second. I am objecting to that on the ground that no foundation is laid, it is irrelevant and immaterial, and it calls for hearsay.

The Court: He may answer.

Mr. Rose: As to foundation, I wish to point out to the court that the foundation is even lacking in the fact that he even knew who he was talking to on the other end of the 'phone.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: When I came back to New York, after my talk with Mrs. Lawyer, I wrote to the Wake Development Company in California and advised them that I had just contacted Mrs. Lawyer, and that they might receive an inquiry from her, and to send the regular offer that we had set up as a regular stipulated offer to Golden Quebec Mines stockholders, in the event they did get an inquiry from Mrs. Lawyer.

Then I waited about six or seven days or so, a

length of time I thought an air mail letter would go back and forth from California, and I called Mrs. Lawyer and asked her if she had heard. She said she had—no, she told me on the first call that she hadn't received any reply from them as yet. I think this was about five or six days after I called her, and I said, "Well, that's funny, I wouldn't let it drag along too long. If you don't hear from them, I would be insistent and write again."

Then I received a letter from the Wake Development Company in which they sent me a copy of a letter that Mrs. Lawyer had sent them. To the best of my recollection Mrs. Lawyer went on to state that somebody had called on her from the Sterling Securities Company in Canada and stated that they wanted to buy her notes, and so forth, and she wanted to know why they had never issued the stock, and she [95] wanted them to do something about it.

When I read the letter, I realized——

Mr. Rose: Just a moment. I think you ought to take the witness in hand; he is about to tell us what was going on in his mind there.

The Witness: (Continuing) I immediately wrote back to Mr. Danziger and stated that under no circumstances should he make an offer to exchange her stock for her under the conditions of her letter, and I suggested that Mr. Danziger write her and tell her that he had similar inquiries from other people about people offering them higher prices for the stock, and that he had no part of it, and therefore he could not make the exchange on

the basis which she offered, and did not desire to do so.

I don't remember all of the letter, but I suggested certain things in the letter, partly which later I found Mr. Danziger had sent, because he sent me a copy of the letter which he wrote her, and then I called the woman again and she told me that she received a letter from them, and they frankly told her they weren't going to do it, and what was it all about. And I said, "I can't understand why they would do that." I said, "Probably"—I said, "Have you got a copy of the letter you wrote them?"

And she said, "Yes, I have kept a copy." She said, "I copy everything down."

I said, "Would you mind reading it to me over the telephone?" And she did.

And I said, "That is the reason. You started to talk about outside brokers purchasing the stock, and so forth, and that is one of the things that they don't want. You better write back and tell them that you accept it as a speculation, not with the stipulation as to some future performance or profit that would be performed in the future, or some expectation you had for selling the stock," and so forth. And she said, "All right." [96]

Well, I again received a letter from Los Angeles, which the woman was a little milder—the woman stated practically the same thing, again, in a little different way, and I again wrote back air mail to Mr. Danziger and said that under no circumstances should he accept her exchange under the conditions she wanted to make it, because it would appear to

be binding on Mr. Danziger, and I was looking out for his interest as well as my own, not having anything in evidence of that sort. To the best of my knowledge, this interchange of letters took place three or four times, and each time I received a copy from Mr. Danziger, and each time I told him he shouldn't accept the sale. Finally the woman did write to Mr. Danziger, she told me over the 'phone, I proceeded to call her several times during the course of this thing, she did write a letter, finally, stating she would accept the exchange strictly on the speculative merits of the deal without any conditions to bind them, and so forth. And at the time I received that letter from Mr. Danziger, I said, "As long as you have this in evidence, you can accept the sale." [97]

#### ASSIGNMENT OF ERROR NO. 16

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Did you meet a man by the name of Harry F. Pitts?

A. Yes, I did.

Q. Do you remember his address?

A. Well, it is up in New York, either Kingston or Newburgh. My recollection is just a little vague about the town.

Q. Either Kingston or Newburgh?

A. Yes, either Kingston or Newburgh, one of those towns up there.

Q. Do you remember approximately when you met Mr. Pitts?

A. The date is very vague, but I remember the man very well because he was in the optical business, eye doctor.

Q. Do you remember meeting him and talking to him?

A. Yes, I do.

Q. Can you tell us what was said between you?

Mr. Rose: I object to it on the ground that no proper foundation has been laid, and it calls for hearsay.

The Witness: Well, I called——

Mr. Rose: Just a moment.

Mr. Lucas: Let's have a ruling on it, first.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I called on him in the evening, around 5:00 o'clock I called at his office, and I was told that he was out by his girl, but that he was going to be back in his office that evening, and that if I returned around 7:00 o'clock that he would be there. [98]

He came back and I told him that I represented some Canadian interests, I don't remember who I said I represented. I asked him pretty much the same thing as I asked——

Mr. Rose: I move that be stricken as a conclusion of the witness.

Mr. Lucas: I will stipulate it may be stricken.

The Court: Stricken.



The Witness: (Continuing) I asked him if he had received any offer from the Trinidad International Petroleum Company to exchange his Golden Quebec stock for stock and notes in the Trinidad Petroleum Company. I told him I represented some Canadian interests that were interested in buying the notes of that company, and we were bidding \$4.80 for the notes, and that the stock had a market of around \$5.00, and that the rate of exchange that had been offered to them by the Wake Development Company and the Trinidad International Petroleum Company in California would, naturally, represent him a profit at those figures, and therefore I thought that he might be willing to sell if he had made the exchange. And he told me, "No, I haven't made any exchange. I didn't know anything about it until now."

And I said, "Well, it looks like you have been asleep at the switch, you better get busy and write to them and find out just what kind of an agreement they will go into with you, and if it is still on the basis that it was made originally, we might be able to do some business together."

And he said, "Well, that is awfully nice of you to tell me that." He said, "I will certainly write them right away and find out all about it." And he was a very sociable type of fellow, I remember him especially well because he took me in the back and bought me a drink, of his office, and then he and I left together and he drove me down the street; and I remember him especially because he told me there was a full moon out that night, and

that was an omen of good luck, and he must have thought I was the good luck omen that [99] came to tell him about this deal. That is why I remember Pitts very well. That is all there was to Pitts' deal.

Later on I went to New York and received a letter that he had written in about stock, and I wrote to Wake Development Company and told them to send the regular form letter that we had agreed upon, to make him the regular offer. Later I heard he had sent in a check for the amount of shares he had; the amount of the shares I can't remember, but they were sent, and I was later sent my commission on the sale.

#### ASSIGNMENT OF ERROR NO. 17

The Court erred in overruling the objection on behalf of the defendants to the receipt as a Government Exhibit in evidence the exhibit identified as follows:

Q. By Mr. Lucas: Just answer the question, Mr. Carter, do you recognize the signature?

A. Yes, I recognize the signature as Ada Faulkner.

Q. There are certain penciled memoranda on the bottom of that letter, I think perhaps words, I know figures——

A. Yes.

Q. ——do you recall or know anything about those figures?

A. That is evidently my own handwriting; but I was trying to figure out how it got on there.

Q. All right. Do you recognize it as your own handwriting?

A. Yes, I do.

Q. And you do not now have any recollection of how it got on there?

A. No, I don't.

Mr. Lucas: I offer this as government's exhibit in evidence, and ask that it be made a part of Government's Exhibit No. 58.

Mr. Rose: We object to it on the ground that it affirmatively appears that certain notations in the handwriting of this [100] witness were put on there in undisclosed circumstances, and it, manifestly, is incompetent on that ground, in addition to the other grounds that I interjected to the copy of that letter.

The Court: Admitted.

#### ASSIGNMENT OF ERROR NO. 18

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, do you remember a man by the name of F. A. Russell?

A. Yes, I do.

Q. Do you remember meeting him?

A. Yes, I do. The town is Leominster, I think, Massachusetts.

Q. Do you recall approximately the time you met him?

A. No I can't remember that.

Q. Do you recall the circumstances of meeting him and any conversation with him?

A. I think it was in 1939, although I am not sure, '38 or '39; the latter part of '38 or '39. I remember having his name and calling at his house. I told him that I understood——

Q. Who was present, now?

A. I beg pardon?

Q. You better tell us who was present, first.

A. Mr. Russell and his wife.

Q. All right.

Mr. Rose: Now, you are asking for the conversation?

Mr. Lucas: Exactly.

Mr. Rose: To which we object on the ground that no proper foundation has been laid. It is hearsay and incompetent.

The Court: He may answer. [101]

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: While I was in Canada I had obtained some names of South McKenzie Island Mines, I think that is the correct name.

Q. By Mr. Lucas: Stockholders, you mean?

A. Stockholders, that's right, that were supposed to own that stock. Mr. Russell was on the list. I went into Mr. Russell's house and interviewed he and his wife in their living room. I told him that I understood that he owned some Trinidad International Petroleum notes, preferential profit-sharing notes, and that I represented some Canadian interests, we were interested in acquiring

those notes and were willing to pay around \$4.80, which was then the exchange rate for the pound sterling.

I asked him if he had any substantial amount of the notes, that I was interested in picking them up right away for the connection that I had. And he said, "Why, no, you must have it wrong."

And I said, "You are stockholder in the South McKenzie Island Mines Company, aren't you?"

And he said, "Yes, I have a lot of that."

Well, I said, "How many shares do you have?" I think he mentioned he had quite a number of shares, 10,000 or 15,000 shares. And I said, "Well, evidently you have been left out in the rain, because you could have exchanged those shares of stock for the Trinidad International Petroleum stock and notes, and besides having a certain number of shares of the Trinidad International Petroleum Company, which would be extremely valuable, you would also have the notes which you could sell to me now."

He said, "Well, that is certainly news to me." He said, "How will I find out about this proposition?"

I proceeded to give him the name of the Wake Development Company who was the fiscal agent, as I understood it, the fiscal [102] agent for the exchange, and I said if he proceeded to write to them he might be able to get some results.

He said, "Have you any suggested form that I should write to them?"

And I said, "No, I think you ought to be very



specific." I said, "I think you ought to go right to bat on the thing." I said, "Instead of you writing out there direct and asking for an inquiry, I think you ought to make a proffer of a check along with your stock and insist that they exchange it. Tell them that you know it can be exchanged."

Well, the amount of money that the transaction was supposed to involve was around \$3500.00, to the best of my recollection."

Q. What do you mean by that expression, "the amount of money——

A. Well, the arrangement for the exchange of stock as I had worked it out at that time would call for the shares of stock which he owned in the South McKenzie Mines plus \$3500.00 in cash.

I can't remember exactly what the arrangement was, but he said, "Well, I wouldn't want to send them \$3500.00 before I know that they would accept it." He said, "Don't you think it is better that I write them first and find out whether they will accept it?"

I said, "Well, I think that is a little weak." I said, "I tell you what you do. You make out a check for, say, 10 percent, make a bona fide offer," I said, "so you will have something concrete, then they will either have to turn it down or return it to you." I said, "That will get you quick action."

So he said, "Well, that's a good idea, I think that is just what I will do, I will write out a check for \$350.00 and I will send it right out there. Who will I make it payable to?"

And I said, "I imagine you should make it pay-

able to the Wake Development Company, because they are the fiscal agents in the transfer office for the stock." [103]

So he said he would do it. I remember it was a rainy night, and I had my umbrella, and I had taken my rubbers off, and I said, "I think I will be leaving."

Q. In this first conversation, did you say anything to Mr. Russell about Trinidad International Petroleum?

Mr. Rose: I object to that as leading and suggestive, your Honor. The witness has been, over objection, permitted to relate a conversation.

The Court: He may answer.

The Witness: Yes, I told him about the Trinidad International Petroleum Company, as I usually did everyone. I told him that this was——

Mr. Rose: Just a moment. I move that——

Mr. Lucas: I will stipulate that expression "as I usually do everyone" may be stricken.

The Court: Stricken.

The Witness: (Continuing) I told him the Trinidad International Petroleum Limited was headed by a group of men who had been formerly associated with Mr. E. L. Doheny in the enterprises of the Pan American Petroleum and Transport Company and Mexican Petroleum Company; that they had made large sums of money while associated with these enterprises; that during the time they had been with them they had acquired a group of properties in the British West Indies, namely, Trinidad, Port-au-Spain; that these prop-

erties had been put into the company, put into the Trinidad International Petroleum Company, after the properties that E. L. Doheny formerly controlled, namely, the Pan American Petroleum and Transport Company and Mexican Petroleum Company had been merged into the Standard Oil of Indiana—I think it was the Standard Oil of Indiana or New Jersey, if my memory doesn't fail me, I think it is Standard Oil of Indiana—and that now these men were expecting to do the same thing with the Trinidad International Petroleum that [104] they had done with the Mexican Petroleum; that the Mexican Petroleum stock had sold as high as \$400.00 a share on the stock exchange, and that the stock and notes of this company was traded both here in the Canadian markets and in London at around their par value, which was around \$5.00 for the stock and \$5.00 for the notes. That is about the extent of the story as I told it.

I usually had a paper with me that showed——

Mr. Rose: Just a moment.

The Witness: I had a paper with me——

Mr. Rose: Just a moment. The witness started to say “usually”; now he said he did have a paper. If he did, we want to see the paper if we are going to have any testimony about it.

Q. By Mr. Lucas: Did you have a paper with you?

A. Yes, I usually had one of the——

Q. Not what you usually had. Bearing in mind——

A. I understand.

Q. —the deal itself and the talk, did you then have a paper with you?

A. Yes, I had a paper with me at the time, and it was an English paper that I had for quite some time, and I showed him the various stocks and told him that this group was traded among that group, but I didn't designate which one, because I usually did that very quickly and just showed it as a flash, and then put it away.

Mr. Rose: Just a minute. Let me have that answer. Part of it I would like to stay in and the rest of it not.

(The answer was read.)

Mr. Rose: Starting with "because" I move that it go out.

Mr. Lucas: And what follows that "because"?

Mr. Rose: Yes; that is just the reason he gives.

Mr. Lucas: I will stipulate that those words after "because" may be stricken.

The Court: Stricken. [105]

Q. By Mr. Lucas: Thereafter did you communicate with the Wake Development Company in Los Angeles?

A. Yes, I did; I wrote them right away after leaving, within the course of a day or so, and told them to expect a letter with a check in it from Mr. Russell for \$350.00. I stated in my notation to the Wake Development Company or Mr. Danziger, if he was there at the time, I stated in my letter that this was 10 percent of the amount that they could expect to get after they signified their inten-

tion of making the exchange; that the \$350.00 was only a 10 per cent deposit on a \$3500.00 transaction.

In that letter that I sent to them I outlined the number of shares, how much credit they would receive for the shares and how many stocks and notes that I had worked out that the man would get.

Q. By Mr. Lucas: All right. Now, you have been using the name South McKenzie Island Mines in this transaction with Mr. Russell; had you prior to this time mentioned that company to Mr. Danzifier?

A. No, I can't say that I did, I can't recollect that I did, although I may have.

Mr. Rose: I move that the latter part be stricken.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

### ASSIGNMENT OF ERROR NO. 19

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, I show you Government's Exhibit 57, in evidence, and refer you thereto to what is marked "copy of Western Union telegram," it is dated December 2nd, 1938, addressed to George Carleton, Hotel Willard, 76th Street and West End Avenue, New York; is that the telegram you have been referring to [106] as having received?



A. That is one of them.

Q. And were you in this Russell transaction using the name Carlton?

A. That I can't answer. I used the name Carlton at the Willard Hotel, but I don't believe I used the name Carlton in carrying on my business with Mr. Russell.

Q. All right. Go right ahead.

A. I later received—after I had received this telegram advising me—at the Willard Hotel—as stated here, a copy of which is laid before me here, “Decided not interested in transfer of stock. Kindly return check as per letter. Unquote. Advise,” I called Mr. Russell on the telephone and I endeavored to find out from him what had made him change his mind. But Mr. Russell acted very suspicious—

Mr. Rose: I move that be stricken as a conclusion and opinion of the witness.

The Court: It may stand.

The Witness: (Continuing) Mr. Russell answered very curtly. He didn't talk to me in the tone of voice, or in the same manner that he had upon the occasion of my first visit. In fact, he had so little to say to me over the 'phone that I had to do nearly—make all the conversation myself, and as a result of my conversation with him—

Mr. Rose: Just a moment. I submit that calls for a conclusion of the witness.

The Court: You may continue.

The Witness: (Continuing) After my conversation I wrote a letter to Mr. Danziger stating that

I didn't know why he had changed his mind, but evidently something had happened to make him change his mind and, therefore, I would advise him to be guided accordingly, and it probably would be a good idea to issue him stock for the [107] amount of money he paid in on the basis of which the deal had been outlined.

### ASSIGNMENT OF ERROR No. 20

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness, W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, you remember meeting a woman by the name of Adeline B. Skinner?

A. Yes, I do.

Q. Tell me, to the best of your recollection, when and where you met her.

A. I met her at her residence in New Jersey. I am a little vague about the town at the moment, because I haven't refreshed my memory. I was under the impression it was Farmingdale, but I do remember the woman had two addresses, and I don't remember just exactly whether it was Farmingdale or another town right near it. But my impression was it was Farmingdale.

Q. Do you recall the year you met her?

A. Offhad, I don't.

Q. Do you recall meeting her and having a conversation with her?

A. Yes, I met her for just a short time and spoke to her.

Q. Tell us who was present and what you said to her and what she said to you.

A. Well, I remember calling on her and asking her, telling her that——

Mr. Rose: Just a second. Objected to upon the following grounds; severally, your Honor: First, there is no proper foundation that has been laid; secondly, it is hearsay, that any conversation that this witness had with the person in question would be incompetent and not binding on the defendants now on trial. [108]

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed. Continue.

The Witness: I remember calling on her, it was in the summer, I told her I represented some Canadian interests, and as near as my recollection serves me I believe I told her I represented the Sterling Securities Company of Montreal, and I was interested in the purchase of some notes that I understood she owned in the Trinidad International Petroleum Company, and I wanted to know if she desired to sell them. And she said, "I don't have any notes in that company." And I said, "Well, that is very strange. According to the list of names I have, your name appears on it. Were you a stockholder in the Great Eastern Natural Gas Company that was the stock that was traded in for the Trinidad stock?"

And she said, "Oh, yes, I have some Great Eastern Natural Gas stock."

And I asked her how many shares she had. And to the best of my memory, I think it was a hundred shares of stock. And she said, "well, what would you suggest that I do?"

And I told her, I asked her if she had ever received any mail from the Trinidad company about offering an exchange, and she said, "Well, now, I don't know. I might have received something some time back, but I don't remember of ever doing anything about it." She said, "Well, is this stock any good?"

And I said, "Yes, the Trinidad International Petroleum stock is good, but the Great Eastern Natural Gas stock doesn't have any market; and I think it would be a very good idea if you got in touch with these people. You say you have a letter?"

Then she said, "Well, I will look it up."

And I said, "Well, I know where they are located in Los Angeles, California, and they have a fiscal agent by the name of the Wake Development Company. They make all the transfers. Now, [109] if you want the address I will be glad to give it to you. You communicate with them, and then at a later date I will come back and see you."

Then she asked me, "Well, does this stock have any value? Would there be any object in me making the exchange?"

And I said, "There certainly would, because the notes are worth about \$4.80. I would be will-

ing to pay that. The stock is worth around \$5.00 a share. There you would have \$10.00 worth of par value stock, and it would only cost you \$3.00 to make the exchange, plus your old stock, and that would certainly bail you out regardless of what you paid for the Great Eastern stock."

And she said, "Well, that sounds very interesting to me, and I am very pleased to get the information and I shall write to them immediately."

That was about all the conversation that took place. I think at the time I had an English paper with me and I showed her quotations of various Trinidad stocks, oil stocks that were listed, and told her that this stock was traded among those stocks on the English markets. That was about the sum and substance of my conversation, at my first and to my recollection my only meeting, although to my recollection there was something that transpired, to my knowledge.

Q. Did you afterwards telephone her?

Mr. Rose: May I have the last answer preceding the last question? We will save time. I was under the impression the witness made some remark that is all he remembered about the thing.

The Witness: After I left Mrs. Skinner's residence I wrote the letter to the Wake Development Company advising them that I had made——

Mr. Rose: Just a minute. I object to that as not the best of evidence.

The Court: You may answer.

The Witness: I wrote a letter to the Wake Development [110] Company and told them that I



had made the call on Mrs. Skinner and they might expect an inquiry from her, and to answer her in the regular way as we had agreed previously to do on all inquiries of that type, and to advise me——

Mr. Rose: I move the latter statement be stricken as merely a voluntary statement on the part of the witness and a conclusion.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Exception. What do you mean, you agreed previously?

The Witness: On the calls, your Honor, there had been a prescribed routine laid down between the Wake Development office, Mr. Danziger, Mrs. Faulkner, and myself, which we adhered to a certain procedure in regard to all of these calls, and after we had made a certain number of the calls and had worked out the plan we always wrote instructions in a very terse manner, stating, "Give them the regular answer, short form," or "long form," and we used to say. There were, in the beginning, two versions of the type of answers that were to be made. Some of them were short and some were a little longer, and I usually stated which answer they were to give, according to the circumstances of the call, and then it was established—then it was agreed that whenever an inquiry came in they sent me a copy, either the original letter—in the beginning I received a great many original letters, and then as time went on I received copies of the original letters on yellow sheets or second sheets, showing what they had received from the

customer and what they had answered the customer, and then I would give any further instructions that I had at that time. That was all done by mail back and forth between New York and Los Angeles, or wherever I happened to be during my travels in making these calls.

Mr. Rose: I move that that statement be stricken on the [111] ground it is a conclusion.

The Court: The motion is denied.

Mr. Rose: That it is an opinion, that it is hearsay and no proper foundation laid, and not the best evidence.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

Q. By Mr. Lucas: All right. Now, getting back to the Skinner transaction, did you thereafter communicate with Mrs. Skinner by letter or telephone?

A. Well, no, I didn't, but I sent another salesman over there.

Q. Do you recall the name of the person whom you sent over?

A. Yes, I sent a man named Mike O'Brien. That was after I had received a notification from Los Angeles that there had been no further reply from Mrs. Skinner after they had sent her the letter stating what the proposition was.

Mr. Rose: I move that be stricken as a conclusion of the witness, no proper foundation laid, and not the best evidence.

The Court: Read the answer, please, Mr. Goldstein.

(The answer was read.)

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I remember Mr. O'Brien and I driving up near her residence and his leaving to make the call. It was agreed between Mr. O'Brien and I that he would then represent himself as a representative of the Wake Development Company to see why she had made the inquiry and why she hadn't exercised her right.

The Court Did she talk about another man?

Mr. Lucas: Yes.

Mr. Rose: Yes. I move that be stricken. [112]

The Court: Did she talk about another man?

Mr. Lucas: Exactly.

The Court: Your motion?

Mr. Rose: I move to strike the statement on the ground it is hearsay and incompetent.

The Court Motion denied.

Mr. Rose: Exception noted.

The Court: Exception allowed.

The Witness: Of course, I don't know what Mr. O'Brien said, but I know what he told me after he came out.

Q. By Mr. Lucas: Do you know if Mrs. Skinner purchased any stock or effected any deal with the Wake Development Company?

A. Yes. A week or so after Mr. O'Brien's call I received a notification that they had received a check from Mrs. Skinner, and I also received a copy of a letter which stated—which had been ad-

dressed to Mrs. Skinner, stating they had received her check and noted a lacking of endorsement on it and had placed an endorsement on it for her and sent it through in the regular manner for collection.

Q. Show you Government's Exhibits 39, 40 and 41, and ask you if you have seen any of those before. I mean before you came here in the court room.

The Court: What are Exhibits 39 and 40?

Mr. Lucas: They are letters that were introduced by Mrs. Skinner herself. I don't know that this witness has ever seen them.

Q. My Mr. Lucas: Do you have any recollection of ever having seen these before?

A. I couldn't have seen these identical letters. I have seen facsimiles of this letter numerous times.

Mr. Rose: I move that be stricken as a conclusion of the witness. Let the record reflect that his answer is that he doesn't recollect seeing the exhibits numbered 39 and 40; that his answer [113] about facsimiles relates to Exhibit 41, which is the Great Eastern Natural Gas Company letter.

The Court: Ask the question again. Strike it, Mr. Reporter.

Q. By Mr. Lucas: Mr. Carter, I show you Government's Exhibits 39, 40 and 41, and ask you if you have ever seen these exhibits before?

A. Not those specific exhibits, no. I have seen carbon copies of two letters there.

The Court: Do you want to move, Mr. Rose?

Mr. Rose: Well, we had an answer to this at first, and now he has changed his answer.

The Court: The question is do you want to move?

Mr. Rose: I move to strike that as a conclusion of the witness.

The Court: The letters you have just said you have seen copies of are these to Miss Skinner?

The Witness: Yes, I saw carbon copies of the letters to Mrs. Skinner.

The Court: Where did you get those?

The Witness: I received those from Los Angeles.

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: From Wake Development Company?

The Witness: From the Wake Development Company.

The Court: Exception is allowed.

## ASSIGNMENT OF ERROR No. 21

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, I show you Government's [114] Exhibit 43 and direct your attention to a letter on the yellow second sheet dated August 18, 1939, and ask you if you have seen a



copy of that, or that particular exhibit before? Just that yellow second sheet.

A. Just the yellow sheet?

Q. That is what I am directing your attention to, first.

Mr. Rose: I object to it as leading and suggestive, your Honor; calling for a conclusion of the witness, no proper foundation laid.

The Court: Overruled.

Mr. Rose: May an exception be noted?

The Court: Yes, exception allowed.

The Witness: Yes, I saw a copy of this letter. That is the regular form letter that we always sent, and I saw a copy of this because I remember receiving it.

The Court: Who did you receive it from?

The Witness: From the Wake Development Company, Los Angeles.

Q. By Mr. Lucas: I show you a letter, a yellow second sheet, August 23, 1939, addressed to Mrs. Skinner, and ask you whether or not you have seen that or a copy thereof?

A. I don't remember seeing this.

Q. I direct your attention to a carbon copy of a letter on a yellow second sheet dated September 12, 1939, and ask you if you have ever seen that or a copy thereof?

A. Yes, I have seen this. I had a copy of this.

The Court: Where did you get it?

The Witness: I received this from the Wake Development Company in the natural course of business.

Mr. Rose: I move that the latter statement be stricken as a voluntary statement, conclusion and opinion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted? [115]

The Court: Exception.

## ASSIGNMENT OF ERROR No. 22

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness, W. E. Warren (Carter):

Q. By Mr. Lucas: Do you remember a man by the name of E. Barrie Smith?

A. Yes, I remember the name.

Q. Do you recall the circumstances of meeting him?

A. Yes, I remember the circumstances.

Q. And where did he live?

A. To the best of my recollection, it was Hartford, Connecticut.

Q. Do you recall approximately the time that you talked with him?

A. I can't give you that, no.

Q. All right. Have you any recollection of what was said between you and Mr. Smith?

A. Yes, I remember the occasion of calling on Mr. Smith at his business office, and——

Mr. Rose: Just a second. I expected a yes or no answer. Objection is had to this proposed or solicited conversation upon the following grounds:

One, that no proper foundation has been laid; secondly, it calls for hearsay; thirdly, that it is incompetent; finally, that it is not binding on the defendants.

The Court: Who is E. Barrie Smith?

Mr. Lucas: He is one of the counts in the indictment, your Honor.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception. [116]

The Witness: I asked E. Barrie Smith if he had any Trinidad preferential profit-sharing notes. He said to me, "Why, no. Why do you ask me that?"

I said, "Well, I had your name on a list here as being a possible owner of the notes of that company, and I represent some Canadian interest who are interested in buying the notes."

And he said, "No, I never heard of it."

I said, "Well, do you own any other Canadian securities, principally Golden Quebec Mines Limited?"

He said, "Yes, come to think about it, I do own some shares in that."

At the time when I made the call, I knew how many shares——

Mr. Rose: I move that be stricken as voluntary and not responsive.

The Court: Denied.

The Witness (Continuing): I knew ahead of time how many shares he had, and my memory doesn't serve me now as to how many it was,

but I asked him to tell me how many shares he had, and he answered a certain number of shares, I can't remember how many it was, I don't believe it was a very large amount, and he said, "What has that to do with it?" And I said, "You can exchange those shares for Trinidad International Petroleum stock and notes if you will write to the company in Los Angeles and tell them that you own the securities and that you have never been made aware of the rights to exchange it, or any offer ever having been made to you previously."

He said, "Well, why would I get stock in an oil company for gold mining stock?"

And I stated to him that the properties of the Golden Quebec Mines Limited were being sold in a receivership proceedings, and that my understanding was some men interested in oil properties were going into the gold business in Canada and were buying up the properties out of receivership, and because there were certain [117] difficulties between the stockholders and the committees for the receivers, that they had made an arrangement whereby the owners of the Trinidad oil stocks were going to allow them to buy some shares in this company for any equity that they might have had in the old Golden Quebec properties. And he said it was the first he had ever known about it, but he would write out there and see if he couldn't exchange his shares. And that was about all the conversation I had with him, and he said, "Well, will I hear from you again?" And I said, "Yes,

I will get in touch with you probably in a couple of weeks and see if you have the notes, and at that time we can do some business.”

Q. By Mr. Lucas: Did you ever thereafter personally call on Mr. Smith again?

A. Not to my recollection.

Q. Did you communicate in any way with the Wake Development Company?

Mr. Rose: Object to that as calling for a conclusion of the witness and not the best evidence.

The Court: Overruled.

The Witness: I did communicate with the Wake Development Company on that call and told them the circumstances of my call, briefly, stating that I had made a call and they would receive an inquiry, and to answer them in the regular form letter that we had arranged previously to answer on all inquiries from stockholders of the Golden Quebec Mines Limited.

Mr. Rose: I move that the answer be stricken on the ground that it incorporates a conclusion and declaration on the part of this witness in the absence of a document and its contents.

The Court: Denied.

Mr. Rose (Continuing): Its inability of production.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception. [118]



ASSIGNMENT OF ERROR No. 22-A

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I refer you to another carbon copy on a yellow second sheet addressed to E. Barrie Smith dated February 6, 1939, and ask you if you have seen that or a copy thereof.

A. I don't remember seeing this one. I didn't usually receive those.

Mr. Rose: I move the latter statement be stricken as voluntary.

The Court: What was the last part, Mr. Reporter?

(The answer was read.)

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

ASSIGNMENT OF ERROR No. 23

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you a carbon copy of a letter dated January 23rd, 1939, and ask you if you recall ever seeing that or a copy thereof?

A. Yes, I have seen a copy of this. I had a copy of it.

Mr. Rose: I move that be stricken as a conclusion of the witness and not the best evidence.

The Court: Denied.

Mr. Lucas: Now, I offer in evidence, if the court please, as a part of Government's Exhibit 59 in evidence, an original check dated January 24, 1939, drawn on the Hartford National Bank and [119] Trust Company, Farmington Avenue Branch, signed "E. Barrie Smith." Also an original letter dated January 10, 1939, addressed to Mr. E. Barrie Smith, and containing the signature, "A. Faulkner;" original letter dated January 19, 1939, addressed to E. Barrie Smith, signed "A. Faulkner," carbon copy of which letter is already in evidence and is a part of Government's Exhibit 59; original letter dated January 26, 1939, addressed to E. Barrie Smith, signed "A. Faulkner," carbon copy of which is already in evidence in Exhibit 59; original letter dated February 6, 1939, addressed to E. Barrie Smith, on the letterhead of Wake Development Company, signed "E. Wake," below that signature "Asst. Secretary," a carbon copy of which is already in Government's Exhibit 59; and ask that these documents which I have previously shown to counsel be made a part of Exhibit 59, which contains the correspondence heretofore introduced in evidence, and as a part of the offer I state that these come to me from the Securities and Exchange Commission.

Mr. Rose: That last declaration of counsel, I take it, is immaterial and really doesn't form a part of the offer.

Mr. Lucas: No; by way of explanation only, Mr. Rose.

Mr. Rose: I don't think it has any place in the record. I haven't any objection, your Honor, to the check, for the reason that the check appears on its face and on the opposite side, by usual bank stamps and clearing house significations, to show that it was deposited to the credit of the Wake Development Company. But as to the others, that is, the letters identified, I object to them on the ground that no proper foundation has been laid, and they are immaterial.

Q. By Mr. Lucas: I ask you if you remember a man by the name of Michael Burns?

A. Yes, I do.

Q. Do you recall approximately when you met Mr. Burns? [120]

A. I can't recall the date.

Q. Do you know where Mr. Michael Burns lived?

A. I think it is in Peekskill, New York.

Mr. Rose: Let me have the town.

(The answer was read.)

Q. By Mr. Lucas: Do you recall the circumstances of any conversation with Mr. Burns?

A. Yes, I do.

Q. Where did it take place?

A. It took place in his grocery store.

Q. Well, now, will you state what he said to you and what you said to him?

Mr. Rose: To which objection is made on the following ground: One, no proper foundation has been laid; it calls for hearsay, the same is incompetent and not binding on the defendants on trial.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told him I represented some Canadian interests that were interested in buying his notes of the Trinidad International Petroleum Company. He said to me, "I don't recollect having any notes in a company like that."

I told him he better look over his records and make sure, because his name appeared to be upon a list of stockholders that hadn't exchanged their stock and notes for this company, he surely must have made the exchange. And he said, "Well, now, what stock is that?"

And I said, "The Great Eastern Natural Gas Company. Several years ago they made an offer to exchange the shares of stock for stock and notes in their company, and you must have some record of that." [121]

He told me that he had a vague remembrance of receiving something of that nature some time back, but for some reason or other he had never taken any action on it. He said, "Is the stock of the Trinidad Company any good?"

I said, "Well, it certainly is, because you can sell the notes for around \$4.80, and that would leave you with the stock that you would get on the the exchange, which also has a value of around \$5.00 a share, and the chances are that the stock will show a much greater appreciation in value over a period of time, because it is headed by a former group of the Pan American Petroleum

and Transport and Mexican Petroleum crowd, they own all these properties and took them after the Pan American Petroleum and Mexican Petroleum were merged into the Standard Oil of Indiana in 1929, headed by a man named Mr. Danziger who is a very big man in the oil business, and all of his former associates in those companies are now associated with him in this new enterprise. The stocks are traded in the London markets.”

I had a paper with me and I showed him the quotations of the various Trinidad stocks and told him the Island of Trinidad was now going to furnish most of the oil to the British Empire; that all the stocks there would show a very rapid appreciation, undoubtedly, and this Trinidad stock was to be classed among them.

He said, “Well, what do you suggest that I do?”

I said, “Well, it is pretty hard for me to tell you what to do, but if I were in your position, I think I would immediately dispatch a letter to the Trinidad Company and tell them that you have never received your right to make this exchange, and you would like to make it now. See what they say.”

He said, “Will you give me an idea just about what I should write?”

And I said, “Yes, I will be glad to tell you what to write. On second thought, I think you better direct your letter to the [122] Wake Development Company; they seem to be the fiscal agents for everything that is handled by the Trinidad Company, and you will probably get your stock from



them. As I understand, they make the transfer and handle all the transactions." So then I outlined a form of letter for him verbally, and he said he would send that letter. And he said, "Will you be back to see me?" and I said, "Yes, I will get in touch with you either by 'phone, or I will come out and see you in person when I get in this neighborhood. I would attend to the matter right away, I wouldn't let any grass grow under my feet," I said to him. That was the end of that.

Q. What did you do after that, if anything?

A. Well, when I left him I wrote a note to the Wake Development Company in Los Angeles, addressed it to Mr. Danziger or Miss Faulkner, I wouldn't remember that, I just directed it to the Wake, to the company, told them that I had made the call and expected an inquiry from him, and to answer him in the usual manner, the regular form which we had outlined to answer to those inquiries, and to advise me when they received the inquiry.

Q. Now, I show you——

Mr. Rose: Just a second.

Mr. Lucas: Pardon me.

Mr. Rose: I move that the answer be stricken, in addition to the grounds interjected to the conversation, on the ground it is not the best evidence, and it is, in part, voluntary and a conclusion of the witness.

The Court: Motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

Q. By Mr. Lucas: I show you, after having

first shown to counsel, a certificate of stock of the Great Eastern Natural Gas Company, Incorporated, being Certificate No. 1743 for 100 shares of stock, and I ask you to examine that and tell me if you have ever [123] seen the certificate before?

A. It seems to me I had this certificate in my possession.

Q. And do you recall from whom you received it?

A. Well, I received, to the best of my remembrance, a number of Great Eastern certificates from the Wake Development Company, telling me that they had no use for the particular certificates, and if I had any manner of disposing of them or use for them, I might as well have them; and I believe this was among them.

Mr. Rose: Just a moment. I move that be stricken on the ground it is surmise, conjecture, speculation, no proper foundation laid.

The Court: I consider this preliminary.

The Witness: May I ask you where you received this?

Mr. Lucas: I received it from your counsel, Mr. Ames Peterson.

Q. By Mr. Lucas: I want to direct one further question to you——

Mr. Rose: Just a moment. There is a motion pending here.

Mr. Lucas: The court indicated he considered my question preliminary.

Mr. Rose: I don't consider it preliminary. I may be in error, of course.

The Court: What are you waiting for?

Mr. Rose: A ruling on the motion, your Honor.

The Court: I am not going to rule. I said I consider it preliminary.

Mr. Rose: Pardon me. I didn't hear the exact language.

Q. By Mr. Lucas: I direct your attention to the back of the stock certificate, where, under the words "In presence of" there is a handwritten signature and the words "George Williams," and I ask you to look at that signature and tell me if you signed it.

A. Yes, I did. [124]

This also refreshes my memory somewhat more on——

Mr. Rose: Just a second.

The Witness (Continuing): ——on the call.

Mr. Rose: I think the witness has exhausted his reply to the question against which a motion was addressed.

The Court: Go ahead.

Q. By Mr. Lucas: Go ahead, Mr. Carter.

Mr. Rose: Did your Honor rule on that motion?

The Court: Not yet.

The Witness: I recollect at the time of my call with Mr. Burns now, that he brought out the certificate of the Great Eastern Natural Gas Company and told me that he was going to send it in, along with his inquiry, that he thought that probably by doing that it would make it more definite. I don't remember now whether he told me he would send the check along with it at the same time or

not, but he was going to make his inquiry and send the certificate in anyhow. Whether he sent the money in at the same time, I don't remember, but I do remember when he brought the certificate out he signed it and he had me witness his signature.

Q. And you then signed your——

A. I signed the name George Williams, the name under which I called on him.

Q. That was the name you used?

A. I used in making the call.

Mr. Lucas: I now offer this certificate in evidence and ask that it be made a part of the Burns file, which is Exhibit 61, your Honor.

Mr. Rose: I will have to add to my objection. At this time, your Honor, I move that the intermitten and several portions of the answer composing the replication to the antecedent question——

The Court: Pardon me. Let me ask a question. [125]

Did this ever get to the Wake Development Company, do you claim, Mr. Lucas?

Mr. Lucas: The testimony of the witness is that he thought he received it back from the Wake Development Company.

The Court: The testimony is too indefinite. I reject the offer.

Mr. Rose: Is his answer stricken?

The Court: No, the exhibit is rejected.

Mr. Rose: How about the—I better renew my motion. I move to strike——

The Court: Strike all the testimony on the subject.

Mr. Lucas: If the court please, I offer in evidence and ask that it be made a part of Exhibit 61, in evidence——

Mr. Rose: In the interest of time here, I take it you are going to repeat the same situation as arose in connection with that—about three exhibits back?

Mr. Lucas: In connection with the E. Barrie Smith file?

Mr. Rose: Yes. In order to save time, insofar as it appears to me, I will stipulate that Mr. Mainland came into possession of these documents by asking and sending for them to the addressee, like he testified in the other matter, and that the signatures that appear upon these proposed documents are the true signatures affixed thereto by the persons whose names are thereto subscribed.

Mr. Lucas: I will accept that.

Mr. Rose: With that part we will save a lot of time. You now offer them?

Mr. Lucas: I now offer them, based on counsel's statement and the other matters in evidence, these following documents: A letter on the letterhead of the Wake Development Company dated December 30, 1938, signed "A. Faulkner;" another letter on the letterhead of the Wake Development Company, dated January 6, 1939, and signed "A. Faulkner;" another letter on the letterhead of Wake [126] Development Company, dated January 25, 1939, signed "A. Faulkner," together with



the accompanying shares of stock of the Trinidad International, and accompanying profit-sharing notes. I offer them in evidence, all of the documents being addressed to Mr. Michael Burns, and ask that they be made a part of Government's Exhibit 61.

Mr. Rose: To which objection is had on the grounds it is wholly irrelevant and immaterial.

The Court: They are admitted.

The Clerk: Part of 61.

Mr. Rose: May an exception be noted?

The Court: Exception.

#### ASSIGNMENT OF ERROR No. 24

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: When and in what manner did you first contact Dr. Hazelton?

A. I called him on the telephone from Philadelphia.

Q. What did you say to him and what did he say to you?

Mr. Rose: Just a moment. I object to that, your Honor, on the ground that no proper foundation has been laid; the same calls for hearsay, it is incompetent and not binding on the defendants on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I told him that I understood that he had some Martin Custom Made Tire stock. I asked him to confirm my impression of his ownership of the stock, and he said yes he owned some stock and asked me what I knew about it. And I told him, of [127] course, the company was in difficulty, receivership, and that there were some special interests that were interested in buying the stock, and I could offer him a dollar a share for his stock. Well, he said he didn't believe he would want to sell it, but he said, "I would like to talk to you about it." I said, "Well, I will be very happy to drop in and see you some time when I am over in your locality. That may be within the next week or ten days."

He said, "Well, be sure to do so, because I would like to get any information you have."

About a week or so after that I did go to his dental office in Mantua, New Jersey——

Q. By Mr. Lucas: Let me interrupt you here. That is the same Dr. Hazelton who has heretofore testified in this case?

A. Yes, it is.

Q. All right.

A. And I told him my name was Roberts on my first call, and on my——

Mr. Rose: Just a moment. To expedite matters, if you consent that his answer be stricken, ask him to relate the conversation so I can get my objection in.

Q. By Mr. Lucas: Just relate the conversation.

Mr. Rose: Just a second, please. Do you consent that his answer previously given may be stricken?

Mr. Lucas: His immediately preceding answer may be stricken by stipulation.

Mr. Rose: Very well. Is that agreeable to your Honor?

The Court: Yes.

The Witness: I told him——

Mr. Rose: Just a moment. I am objecting to this present conversation that is now being sought to be elicited from the witness upon the grounds: one, that it calls for hearsay, that no proper foundation has been laid, the same is incompetent and is not [128] binding on the defendants now on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told Dr. Hazelton that I was the Mr. Roberts that had called him on the telephone. And he said, "Oh, yes, would you mind waiting? I have a patient in my office. Just make yourself comfortable.

And after about 20 minutes he opened his door and said, "Come in." I went into his dental office. I asked him how many shares of Martin Custom Tire stock he had. He said he had 300 or 400 shares of the stock. And I said, "I suppose you paid three or four dollars a share for the stock? He said, "Yes, that's right."

I said, "You don't feel that you would be interested in selling it at a dollar a share." And he said, "No, I think I might hold on to it because I had a letter from the company and they told me there might be a reorganization."

I told him then that I was a trader in securities, that I did have an affiliation with a large oil company in Los Angeles, California, that I represented them in certain matters pertaining to their securities, and they had a stock that showed unusually attractive possibilities. I told him that the men that were connected with this Trinidad Company—and then I named the company, the Trinidad International Petroleum Company—and I said, "The men that head up this company are some of the best known oil men in the business, they comprise the old crowd that headed the Pan American Petroleum and Transport Corporation and the Mexican Petroleum Company, they were more commonly known as the E. L. Doheny oil crowd." I asked him if he had remembered the spectacular market activities of Pan American Petroleum and Transport stock when it was listed on the Stock Exchange, and he said no he didn't remember that so much. And I told him it used to go up three and four hundred dollars a share [129] and down like a curtain on a roller, and that this crowd would probably be able to do the same thing with the Trinidad International Petroleum stock. I told him that the stock was then selling in the neighborhood of around \$12.00 or \$13.00 a unit, that the stock was around five or six dollars a share, and that the

notes were worth about five, five to seven dollars, depending on how he sold the notes. I told him the stock was closely held and it wasn't easy to get a block of the stock, but that I had some people who had a block of stock that I thought might be interested in selling it. I told him that I thought it would be a very good idea if he bought into this company. He said it sounded very interesting to him. And he also told me, "What do you know about a stock called "Communications Research"? Since I previously had been advised about his holdings in Communications Research, as well as the Martin Custom Made Tire stock by a broker in New York who gave me his name, I told him that I thought it was a promising prospect in the television group of stocks, one of the newer television companies, and since that broker had asked me not to take the stock away from him, I told him that I thought he ought to hold on to it, it might have good speculative possibilities. Then I told him—I asked him what other stocks he owned. He got out a list of about five, or seven—five or six stocks, to the best of my memory, and gave me the names of them, and I wrote them down. I told him that I thought it might be a good idea if I looked up these stocks and made a report to him about what I thought the future possibilities were on them, and then I would call back and give him my idea of those I think he should sell, and dispose of and put into the Trinidad Oil Company. I told him then that I didn't think he ought to sell any of them without my first getting an opportunity to look



each one of them up individually, and then make suggestions to him. He said he thought that was an excellent idea. And to the best of my recollection I left him at that time. [130]

Q. By Mr. Lucas: All right. Did you thereafter come back and talk with him again?

A. To the best of my recollection I was back to see him within a very short time. Before I went back to see him I visited A. D. Phelps, a broker in New York, an over-the-counter stock broker. Mr. Phelps had previously given me the name, with the understanding that if I sold him any stock that I would cut him in on any profits that would be made out of the transaction. Mr. Phelps did desire to obtain some shares of stock in the Martin Custom Made Tire Company. He told me he could resell the stock at a profit to him, and he would pay me a dollar for any stock I could take in.

When I left Dr. Hazelton I went back to see Mr. Phelps in New York, and I explained to him the number of stocks that this man had, and I told him that I was interested in selling him a block of Trinidad International Petroleum stock, in which I had a connection in California where I could receive the stock from.

Mr. Phelps said, "Well, that is all right with me. What are you going to do with the stocks when you take them in from him?" Meaning the list of stocks Mr. Hazelton had.

I said, "I intend to turn them over to you for sale."

He said, "As long as I don't get involved in the

Trinidad sale of stock, it will be all right with me. I will sell the stocks, but you will have to get a power of attorney from the man stating that I have the power to turn the money over to you after you sell them."

I said, I knew that, and I would do that, and I told him that undoubtedly he could expect to receive the stocks by registered mail from Dr. Hazelton within a few days, along with a power of attorney and a letter of instructions telling him to sell the securities and turn over the proceeds to me for investment as I saw fit.

Then I returned to Dr. Hazelton and I told Dr. Hazelton that [131] I thought——

Mr. Rose: Are you starting a conversation—May those few words go out? Well, they are innocuous. I take it he is going on with a conversation.

Mr. Lucas: I take it so too.

Mr. Rose: At this time, your Honor, I object to the conversation that is now started to be elicited on the ground that the same is incompetent, irrelevant, immaterial, hearsay and is not binding on the defendants now on trial.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I then returned to visit Dr. Hazelton, and at that time I obtained his permission—or he consented to send a certain list of securities which we had talked about to be sold, with a power of attorney and letter of instructions to A. D.

Phelps, with further instructions to turn the proceeds of the sale over to me in New York.

Q. By Mr. Lucas: Now, I show you Mr. Witness, a letter dated July 6, 1938, heretofore marked as Government's Exhibit 23 in evidence, and ask you if that is your signature, "A. L. Roberts" on the second sheet thereof.

A. Yes, that's mine.

Mr. Rose: Let me take a look at it. It will save time, because I will know if I want to object or not. This is already in?

Mr. Lucas: That's right.

Q. By Mr. Lucas: I want you to notice the date, first, of this document, Mr. Carter. The exhibit is dated in July, 1938.

A. Yes, I noticed that. I was in error about the date that I called, but that can be expected. I notice this is 1938.

Q. Do you now desire——

Mr. Rose: Just a second. Wait a moment. I move that his answer be stricken as voluntary, induced by a leading and suggestive [132] question. The direct testimony of this witness, as your Honor will recall, is that he first met Dr. Hazelton in 1940. Now counsel is directing his attention to an exhibit, in order to suggest to this witness that he go back two years before that time. I think it is grossly improper.

Mr. Lucas: I merely wanted, if the court please, to give the witness an opportunity to correct his answer heretofore made, if he so desires.

The Court: Continue.

Q. By Mr. Lucas: Do you want to correct your statement heretofore made that you first met Dr. Hazelton in 1940?

A. Yes, I want to correct that, because of the time element. I can't be correct on dates all the time. That was so long ago, while the instances are firm in my mind, the dates may be wrong, and that is the reason I have usually said that I can't be sure of the dates. I do recollect now that I see this letter that it was previous to the time, and it couldn't have been in 1940, on further refreshing my mind, because I was doing other things at that time also. I don't know why I said '40, but it is one of those things.

Q. By Mr. Lucas: Directing your attention, again, to that exhibit, did you receive the stocks which are reflected on that exhibit from Dr. Hazelton?

Mr. Rose: I object to it as immaterial and not binding on the defendants: It is *res inter alios acta*.

The Court: Overruled.

The Witness: May I read this?

Q. By Mr. Lucas: Certainly, if it will help you.

A. Yes, this letter is one I wrote to Dr. Hazelton which confirmed the agreement that I entered into with him, and as I have outlined here in my testimony.

Q. Did you receive the proceeds from the sale of that stock?

A. Yes, I did. [133]

Q. What did you do with the proceeds?

A. Well, at that time I communicated with the Wake Development Company, Mr. Danziger was there at the time, I believe——

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: Stricken.

The Witness: (Continuing) I communicated with the Wake Development in Los Angeles and told them that I wanted to make a transaction, that I had made a certain representation to Dr. Hazelton about the Trinidad International Petroleum stock. I told them that I was representing myself as A. L. Roberts, and that I was making arrangements to make a sale of Trinidad International Petroleum stock and its notes, and that they would receive the regular stipulated amount, which was one-third of any proceeds I received from the sale, and that I would retain the balance for myself.

Mr. Rose: I move that entire answer be stricken on the ground that it is hearsay, not the best evidence.

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: All right. Now thereafter did Dr. Hazelton become a purchaser of any Trinidad stock?

A. If my memory serves me correctly, upon sending the funds, which I did, to Los Angeles for stock, I asked them to make certificates in my name, or in the name of A. L. Roberts, and to for-



ward them to me, and I would give them to Dr. Hazelton, and later have Dr. Hazelton transfer them.

That is the best of my recollection now of the transaction. It was something like that, anyhow.

Q. Do you recall from memory the number of shares of stock that Dr. Hazelton acquired in this transaction? [134]

A. Well, I think it was around 600 shares, four or five hundred, six hundred, I can't be definite on it.

Q. I show you Government's Exhibit 25, in evidence, consisting of three letters from the Wake Development Company, signed "J. M. Danziger" in two instances, "A. Faulkner" in the other, and ask if the use of those exhibits would refresh your recollection as to the transaction.

Mr. Rose: Just a second. Now, may I have the question?

(The question was read.)

Mr. Rose: I object to it as leading and suggestive. I submit that the rules of evidence are quite clear that the witness may refresh his recollection or resort to some memorandum made by him or by some memorandum in which he participated at or near the time. The question in its present form is clearly leading and suggestive and incompetent.

The Court: Who is that correspondence between?

Mr. Rose: Between J. Arthur Hazelton and the Wake Development Company; and it has gone in, your Honor, by the foundational testimony of Dr.

Hazelton that he received these particular communications in the mail. We have a personal conversation that it is a communication he received from Wake. Now, they are in evidence. Now the present question seeks to have him read something and then have him amplify this tale he is telling here by reading these letters.

The Court: Don't you believe what he is telling, Mr. Rose?

Mr. Rose: Frankly, I don't think—there are certain things that, undoubtedly, are correct that he did say, your Honor; but there are certain things that he said in connection with this transaction with Hazelton that I disbelieve totally and completely.

The Court: How would this correspondence between third parties aid his recollection, Mr. Lucas?

Mr. Lucas: I don't know. I take it from reading it myself [135] that it is corroborative and would aid him in determining whether it was six or seven hundred shares, because the exact amount of shares sent to Dr. Hazelton is reflected in that letter.

The Court: It would be leading in effect.

Mr. Rose: Dr. Hazelton, your Honor, has——

Mr. Lucas: I will withdraw it.

The Court: It is withdrawn.

Q. By Mr. Lucas: I show you Government's Exhibit No. 27 in evidence, and call your attention to a document that is attached or clipped onto the back of this certificate, denominated here "Irrevocable stock power", the signature thereon is "Arthur

L. Roberts," and ask you if that is your signature.

A. A. L. Roberts.

Q. Yes, A. L. Roberts. Did I say something different? I am sorry. Is that your signature?

A. That is my signature.

Q. Is the handwriting——

A. That is my handwriting, yes.

Q. ——with the signature over on the left-hand side above the word "Witness", where we find "B. M. Walker"—do you know whose signature that is?

A. No, I don't remember that.

Mr. Rose: What is the answer?

(The answer was read.)

Q. By Mr. Lucas: I show you Government's Exhibit 28, being a stock certificate of Trinidad International Petroleum Limited, to which there is also attached an irrevocable stock power, and direct your attention to the name and signature "A. L. Roberts", and ask you if you signed that, and if it is your signature?

A. Yes, that is my signature. The writing is also mine for the transfer of 100 shares of stock in my name. This is 100 shares of notes. [136]

Q. You are speaking of Exhibit 27?

A. It was transferred out of my name into Dr. Hazelton's name.

Q. I show you, now, Witness, Government's Exhibit 29, in evidence, being a cashier's check payable to A. L. Roberts, drawn on the Farmers National Bank of Mullica Hill, New Jersey, particularly I direct your attention to the endorsement

on the back of the check "A. L. Roberts" and ask if that is in your handwriting?

A. No, that's not.

Q. Did you have any conversation with Dr. Hazelton about that check?

A. Yes, I did.

Q. State that conversation, please.

A. I wrote a letter to Dr. Hazelton——

Mr. Rose: Just a second. He has been asked to relate a conversation, and now he is starting to tell us about something else. Mr. Lucas, don't you think you ought to have him stay with the conversation?

Mr. Lucas: What is the pending question?

(The question was read.)

Q. By Mr. Lucas: Will you answer the question to the best of your ability, please?

A. Well, this check resulted from correspondence I had with Dr. Hazelton.

Q. I show you, then——

Mr. Rose: I move that the answer be stricken on the ground that it is not responsive. He was asked if he had a conversation in respect to this check.

The Court: Stricken.

Q. By Mr. Lucas: I show you, Mr. Witness, Government's Exhibit 39, and ask you if that letter in its entirety, and the signature thereon, is your handwriting? [137]

A. This is my handwriting.

Q. Did you write the letter?

A. Yes, I did.

Q. Is that the letter that you spoke of a moment ago?

A. Yes, it is.

Q. Mr. Carter, before the noon recess we were starting into the 1940 transactions between you and Dr. Hazelton. Did you have any communication or correspondence with Mr. Danziger or the Wake Development Company after you contacted Dr. Hazelton in 1940?

Mr. Rose: I object to the form of the question as leading and suggestive. There is a conflict in the testimony on the part of this witness with his observations as to when and what conversation and when the transaction occurred.

The Court: You may answer.

The Witness: Yes, I had communications by mail with Mr. Danziger in Los Angeles. I wrote him and told him that I——

Mr. Rose: Just a minute. I object to it on the ground that no proper foundation has been laid; it is a conclusion and opinion of the witness, and not the best evidence.

The Court: Objection overruled.

Mr. Rose: May we have an exception?

The Court: Allowed.

The Witness (Continuing) I wrote him and told him that I was going to try to make a new deal, a re-load deal on the Hazelton account, which I had sold previously in 1938.

Mr. Rose: Let me hear that.

(The answer was read.)

Q. By Mr. Lucas: Go ahead.



A. I asked him at the time if he had any material that he could furnish me in the form of a letter as to any recent activities or new activities that might take place, and I stated at the time, generally, that my thought was that I could get about [138] \$5000.00 minimum from Mr. Hazelton, and that I needed something in the form of a new letter. He wrote me a letter back, and he sent me a letter, I can't remember the contents of it all now, but it was a letter addressed to A. L. Roberts—

Mr. Rose: I move that be stricken as not the best evidence, no proper foundation——

The Witness: And to the best——

Mr. Rose: Just a second.

The Court: Do you have the letter?

The Witness: No, I don't.

The Court: Do you have it, counsel for the government?

Mr. Lucas: I take it from what the witness has gone along on, your Honor, that we are now getting to Exhibit 31. May I have it? It is in for identification. Your Honor may not remember it, but it was marked for identification when Dr. Hazelton was on the stand. He testified that it was a copy made in his handwriting of a letter I think this witness is referring to now.

The Court: You might show it to Mr. Rose.

Mr. Rose: I recall it very well, your Honor. May I point out to your Honor the state of the record in connection with this item? This is a letter in the handwriting of the witness Hazelton

that he said he made of some letter that he had received in the mails from this witness——

Mr. Lucas: No. He received——

Mr. Rose: Just a minute. I am addressing the court, and I think I know what I am talking about.

Mr. Lucas: I am sorry, Mr. Rose.

Mr. Rose: I will have to start over again. The state of the record will substantiate this in connection with this particular Exhibit 31. The witness, Hazelton, your Honor, stated that he had a conversation with this witness about getting some kind of a letter from him; that he received a letter from him, this witness, [139] with instructions to return it to him, not to Wake or Danziger or anybody, but to return it to this man here. He said he thereupon made in his own handwriting what he testified to was a copy of the letter that was sent to him from Roberts or this witness, and that this letter purports to be a copy of a letter that this witness sent to Hazelton, and which Hazelton, in turn, returned to this witness. If your Honor will recall, the inquiry concerning the Hazelton transaction is reflected in Exhibit 92. Your Honor will recall that Mr. Mainland went in at great length making inquiry about whether Paddleford discussed certain things. This letter purports to be signed by Wake Development Company by one of its directors, Paddleford, and Mr. Mainland in his examination under Exhibit 92 here, went in at great length, not asking about whether a letter of this character had been written, but drawing in his examination, canvassing the substances and the matters contained

in this particular letter, certain alleged conversations that Paddleford had had with Danziger about certain matters, and your Honor will remember there was a great deal of it, and I asked Mr. Mainland whether he told or informed Mr. Danziger that there was any purported letter or forged letter of that fact, and he said no he definitely kept that information from him.

There ought to be a limit as to how far—your Honor has a discretion, I recognize, in a type of case of this kind in admitting evidence, but counsel is attempting now to build up his own straw men and knock them down, he is now going to attempt to take a letter that your Honor has before him now, written by Hazelton, which purports to be a copy of another communication, which, in turn, purports to be signed by this Doctor here, and which manifestly is not the case, and he is going to try and bind us now that such communication was, in fact, sent out; and now he is trying to lay the foundation to introduce this double, double hearsay.

The Court: Do you have the letter that was sent to you? [140]

The Witness: No, I haven't it, your Honor.

The Court: Do you remember who it was signed by?

The Witness: Yes, it was signed by Paddleford.

The Court: How would it happen to be signed by him when all your communications were with Danziger previously?

The Witness: This letter was supposed to be a

letter to assist me in making a particular sale to Mr. Hazelton.

The Court: Do you know what happened to the letter?

The Witness: I suppose it has been lost. I looked all through the papers I had and didn't find it.

The Court: And you did show it to Hazelton?

The Witness: Yes, I did.

The Court: You don't know whether he took a copy of it or not?

The Witness: Yes, he wrote it down——

The Court: Wait a minute. In your presence?

The Witness: Yes.

The Court: And gave you back the original?

The Witness: That is my recollection.

The Court: But you are not sure of it?

Mr. Lucas: The testimony——

Mr. Rose: Pardon me. Your Honor, I refer the court to the record, the testimony of Dr. Hazelton. Hazelton's testimony is that he received that particular letter in the mail and was to mail it back to this witness, and that he did mail it back, and that he wrote that himself. Your Honor, I challenge counsel to establish a scintilla of evidence contrary to the state of the record as reflected by the remarks made by me to your Honor.

The Court: I think under the circumstances, you object to the letter coming in, Mr. Rose, I will let the witness—the original is lost, I will let him summarize what is in it.

Mr. Rose: Here is the situation, your Honor.

This doesn't [141] purport to be a letter by Danziger or the secretary or anybody; it is manifestly a forgery. It is a letter by Paddleford; it is supposed to be one by Paddleford——

The Court: Forgery by whom?

Mr. Rose: I don't know. How can we tell? Manifestly, from the examination of Mr. Danziger—I assure your Honor Danziger would probably have shot this fellow if he had any idea that a fine gentleman like Paddleford's name had been used in this manner. My point is this, your Honor. We are being saddled here by what? This gentleman here produced, when he discreetly desired to produce, the various communications, including envelopes, way back in 1937. Now, it is very convenient for the government, but it violates the fundamental law of the land, to put a man on who is a confessed and recalcitrant defendant in this action, and who has received, manifestly, the benefits by reason of some deal made with the prosecution——

The Court: Mr. Rose feels very strongly about this. I am a stranger in the community, I don't know your names and your personalities, is it necessary to your case to bring in the name of another man here whose name it has been suggested might have been forged? Is it necessary to the government's case to do that?

Mr. Lucas: I don't see how we can avoid it and bring in this particular phase of the record.

The Court: Well, is that necessary to your proof of the Hazelton count? That is my question.

Mr. Lucas: It is part and parcel of the trans-



action. Now, to answer your question and tell you whether it is an essential part of the matter, I just can't say, your Honor.

The Court: You have already proven certain transactions, which if believed by me and not refuted, would support your allegations on the Hazelton count.

Mr. Lucas: I understand that. I want to say I disagree with [142] everything counsel said, mostly, except when I was interrupted I was just about to concur with counsel that Dr. Hazelton's testimony from the stand was different from Mr. Carter's recollection of the deal. Dr. Hazelton testified, as counsel indicated, that Mr. Carter gave him this original letter, showed it to him, and he asked permission from the witness Carter to keep it and retain it sufficiently long to make a copy, and that he did make a copy, and I agree with counsel my recollection of Dr. Hazelton's testimony was that he then thereafter sent the letter by mail to Mr. Carter.

The Court: You claim you got a letter from Danziger saying that——

The Witness: I heard——

The Court: Wait a minute. You claim you got a letter from Danziger saying that he had gotten Dr. Paddleford to sign this letter and was sending that for your use?

The Witness: No, no I don't claim that. I claim I received this letter, such as a piece of sales literature, with the notation to the effect, "You may find this useful."

The Court: There is no other letter that I recall came in here with Dr. Paddleford's signature.

Mr. Lucas: We don't contend that Dr. Paddleford ever wrote that letter or knew the slightest thing about it. I want the record to be clear on that.

The Court: It is too vague. I am going to exclude the letter.

Mr. Rose: That particular letter, you brought it out in some questions of yours of Dr. Hazelton; it was on plain paper, it was not on stationery of the Wake Development Company or anybody else. That is the state of the record. It was on a plain sheet of paper.

The Court: The letter will not come in and I will exclude any testimony about it.

Mr. Lucas: Very well. [143]

Q. By Mr. Lucas: Now, then, to pick up, Mr. Carter—and omitting anything you said to Dr. Hazelton about this so-called letter, or omitting anything about a communication with Mr. Danziger about this letter, proceed with what you stated to Dr. Hazelton after your communications with Wake.

Mr. Rose: Just a minute. I object to the form of the question on the ground that it assumes that the communication was from Wake.

The Court: He may answer.

The Witness: I called Dr. Hazelton on the telephone from New York and told him I was going to visit him because I had a matter I wanted to talk over with him. And in a few days I went down to see Dr.

Hazelton in Mantua, New Jersey, in his office. On the occasion of my visit there I told him that——

Mr. Rose: Just a second. I object to the conversation that this witness is about to relate upon the ground that no proper foundation has been laid, that it is, manifestly, hearsay; the same is not binding or competent on the defendant.

The Court: He may answer.

The Witness: I explained to Dr. Hazelton that the stock of the Trinidad International Petroleum had not gone up as high in price as I had anticipated during the two years or a year and a half interim that I had sold him his previous stock or had been instrumental in getting him to acquire his holdings in the company, but that I had every reason to believe that soon there would be a deal culminated whereby a certain number of shares of stock would be taken up by a syndicate group. I told him that his holdings in the company were not adequate enough to entitle him to participate in that sale, so I told him that I wanted to increase his holdings in the company by an additional thousand shares of stock. He very frankly told me that he could not think of such a thing; that it was beyond his ability to furnish any more funds, and he [144] told me that he didn't have any more securities. He showed me some royalties that he had bought since I sold him the last time, amounting to \$2,500.00, stating that that was the last money he had, and he couldn't put in any money. I then asked him if he couldn't put in a smaller amount, and he reiterated what he said, he just simply was strapped, he had no more

money to put into anything and he couldn't go any further.

At that time I told him that I was contemplating a trip to Los Angeles, and that from Los Angeles I was coming back to New York, and that I was going down to Trinidad to work on this arrangement whereby we were going to dispose of the stock; that I would take care of him in some manner, shape or form, regardless of whether his holdings were large enough to warrant his participation in the syndicate. He said, well, that would be fine, he hoped I would take care of it. And I said, "Of course, the expense of this trip is going to be considerable. It is going to run into a great deal of money, and I would like to have you underwrite a part of that cost." He said, Well, he would try to do what he could. And then I pinned him down and he said, "The most I could advance toward that expense would be \$300.00." Then I told him that wouldn't be sufficient, that the least I could accept would be a thousand dollars. We finally arrived at \$700.00 as the basis, but I would have to wait for the balance of the \$400.00. At that time I agreed that he should be entitled to receive another hundred shares of stock for the money that he would advance toward this expense and, namely, would transfer 100 shares of the stock that he had in my name and was holding for me, in consideration for this money.

He told me he didn't have the money right then and there, and asked me where he could mail it to. I told him he could mail the check out to the Wake Development Company in Los Angeles in care of

A. L. Roberts, and that I would receive it when I arrived out there. Then I left. I wrote to Mr. Danziger and told him he would [145] receive a check, that I had been unsuccessful in getting any more than \$300.00 out of Mr. Hazelton, and explained to him that when the check came through that he could either cash it or re-forward it to me and I would cash it.

I received a letter back from him——

Mr. Rose: Just a moment. I move that the declarations of this witness as they purport and relate to a letter he said he wrote to Danziger be stricken on the grounds, severally, that it is not the best evidence, calls for a conclusion, conjecture, speculation on the part of this witness.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness (Continuing): I later received a letter from Los Angeles stating they had received the check for \$300.00 and had put the check in for collection, and after the check had cleared they would send me the usual \$200.00, less wiring charges.

Q. By Mr. Lucas: Did you receive it?

A. I later did receive the money, yes.

Q. Mr. Carter, I show you a letter, Government's Exhibit No. 34, in evidence, and ask you to look at the signature and tell me if you wrote and signed it and sent it to Dr. Hazelton?

Mr. Rose: Is that an exhibit in the case?

Mr. Lucas: It is; Exhibit No. 34, counsel.

The Witness: Yes, this is my letter. [146]



## ASSIGNMENT OF ERROR No. 25

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: From whom did you receive these various money orders?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness.

Q. By Mr. Lucas: Do you know who sent those to you?

A. Will you let me look at them?

Q. Yes. Just the first six, I believe is all I called your attention to.

The Court: The question is do you know who sent them to you?

The Witness: Offhand, I don't.

Q. By Mr. Lucas: I call your attention to the first six of these post office money orders, again; they bear date——

Mr. Rose: Now, I object to that, because the witness has clearly indicated that he has no knowledge of these particular exhibits, after examining them, and I am objecting to your leading or suggesting any matter to a, manifestly, hostile witness.

Mr. Lucas: I hadn't completed my question, if the court please. May I complete my question?

The Court: You may.

Q. By Mr. Lucas: I call your attention to the fact that each of these photostatic copies of money orders are dated December 26, 1940, and each of

them bear the typed name "Mary D. Briggs, Postmaster" in each instance; does that refresh your recollection as to whom you received these from?

A. Yes——

Mr. Rose: Just a moment. I object to that as leading and suggestive, argumentative and, menifestly, not the form of a [147] document from which this witness can refresh his recollection as to the source or the person that assertedly sent them to him.

The Court: Did you get money orders from Los Angeles at that time?

The Witness: Yes, I did.

The Court: Did you get them from more than——

The Witness: I received them from——

The Court: Wait a minute. Did you get them from more than one source?

The Witness: No, I did not.

The Court: Do you know the source from which you received money orders from Los Angeles at that time?

The Witness: Yes, I do, your Honor.

The Court: State what it was.

Mr. Rose: Just a moment. May I reincorporate my objection to the question as applicable to the supplemental question augmented by the court's inquiry?

The Court: The objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

What source did you get the money orders from?

The Witness: I received these from J. M. Dan-

ziger. And to the best of my recollection, the senders at the time I received them were noted as "Levy," if my memory is correct.

Mr. Rose: I object to that, your Honor, on the ground——

The Court: How would you know that?

The Witness: When you receive these certificates, they usually I think they usually make the notation on it who the sender is, if my recollection is correct.

#### ASSIGNMENT OF ERROR No. 26

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter): [148]

The Witness: I also remember that I received \$530.00 from the Wake Development Company through one of the various names that was used to send me money about this time from Los Angeles, and I never received any money from any other source from California other than that; so, therefore, it must be from that source.

Mr. Rose: I move that his answer be stricken; that it is a conclusion based on conjecture, speculation, no proper foundation laid, and I call your Honor's attention to the fact that without equivocation this witness gave a definite and unqualified response to a direct examination.

The Court: The part of his answer that he received money only from one source in California may stand. The rest is stricken.

Q. By Mr. Lucas: On the face of this document, opposite the word "From" there is typed in the word "A. Levy;" can you tell me from whom you received that money?

Mr. Rose: I object to it as calling for a conclusion and opinion of the witness.

The Court: He may answer.

The Witness: Yes, I received that from Mr. Danziger.

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Allowed.

Q. By Mr. Lucas: I show you Government's Exhibit 18 in evidence, and call your attention to a photostatic signature on the back and ask you if that is your signature?

A. It is.

Q. Did you receive the money? A. I did.

Q. That is represented by the Western Union money order? A. That's right, I did. [149]

Q. And from whom did you receive it?

A. Mr. Danziger.

Mr. Rose: I move that the answer be stricken for the purpose of inserting an objection.

The Court: Well, it is stricken. Make your objection, Mr. Rose.

Mr. Rose: I object to it on the ground that it calls for a conclusion and opinion of the witness. No proper foundation laid.

The Court: The objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception noted. What was your answer?

Q. By Mr. Lucas: From whom did you receive it?

A. Mr. Danziger.

#### ASSIGNMENT OF ERROR No. 27

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Did you receive the money represented by the original Western Union money order?

A. Yes, I did.

Q. And from whom did you receive it?

Mr. Rose: Just a moment. I object to it as calling for a conclusion of the witness, no proper foundation laid.

May I take this witness, incidentally, at this point on voir dire as to this limited subject matter?

The Court: No, I don't think so. Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I received that from Mr. Danziger.

#### ASSIGNMENT OF ERROR NO. 28

The Court erred in overruling the objections and in denying the motion of defendants to strike the



following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Mr. Carter, do you remember a man by the name of Harold McCoy?

A. Yes, I do.

Q. Did you ever see him before you saw him in the court room in the trial of this case?

A. Yes, I did.

Q. Do you recall approximately where and when?

A. Yes, I saw him in Cadiz, Ohio.

Q. Can you tell me approximately the time?

A. I think it was in 1938.

Q. Did you have any conversation with him?

A. Yes, I did.

Q. What was the conversation concerning, what was the subject matter of it?

Mr. Rose: Just a moment. Are you asking him for the conversation or are you asking him for his conclusion as to what the subject matter was?

Mr. Lucas: The reporter will please read the question.

The Court: No, don't read it.

Mr. Rose: I object to it on the ground that no proper foundation has been laid, and it calls for hearsay, and it is incompetent and not binding on the defendants on trial.

The Court: Overruled.

The Witness: I called at Mr. McCoy's house and had a conversation with him. I asked him if he owned any Trinidad stock and notes. I told him that my name was A. L. Baker, that I repre-

sented a stockholders protective committee for the Great Eastern Natural Gas stockholders. Then he told me no, he didn't own any Trinidad stock or notes, and wanted to know why I asked him that; and I told [151] him that there had been a group of stockholders that had never had the right to exchange their stock for the Trinidad Petroleum stock and notes that had formed a committee, and I represented a committee. The purpose of the committee was to see that those stockholders who had not had the opportunity to exchange their Great Eastern Natural Gas stock did get that opportunity. I asked him then if he hadn't received some literature back several years previously about the exchange. He said, yes, he remembered something about that, but that he just figured it was one of those kind of things that they wanted more money out of, and he didn't answer it for that reason, or he didn't pay any attention to it. And I told him, well, I asked him if he knew that the stock had considerable value at that time, and he said no he didn't know that, "How much was it worth?" I told him the stock was worth about five or six dollars a share and the notes were worth about five or six dollars a share.

Q. By Mr. Lucas: What stock were you speaking of?

Mr. Rose: Just a minute.

The Witness: Trinidad International Petroleum.

Mr. Rose: Your Honor, there ought to be an end to this constant suggestion here. We are meeting some conversations that we obviously are not

present, and counsel suggests was there anything said about this. I think he ought to stop leading the witness.

The Court: That was a pretty fair question. He asked him what stock he was speaking of.

Mr. Rose: He seems to have an amazing memory about conversations, and I thought he would tell us——

The Court: If you are objecting to the witness' memory, that is one thing; but if you are objecting to the form of the question that Mr. Lucas asked, I think that form is very correct.

Mr. Rose: I am sorry.

The Witness: We were talking about the Trinidad International Petroleum stock and notes. I asked him how many shares of stock he had in the Great Eastern Natural Gas Company, and he told [152] me he had had 2700 shares—I think he told me at that time he had a lesser amount, around 2600 shares of stock in the Great Eastern Natural Gas Company, and he asked me what procedure we were going through, and I told him, "Well, if you would like to exchange your stock and you signify your interest by giving me ten cents a share deposit on your stock, I will go ahead and list your claim with the Wake Development Company in California, and see that some action is taken on the matter, then you may get a right to subscribe on the old original basis, which was \$3.00 payment in cash and a credit of \$2.00 for every share of your Great Eastern Natural Gas stock."

So he said, "Well, let me look that up and see

what it amounts to, I want to make sure about it.”

And he looked it up and he found he had 2750 shares of stock. So he made out a check to the man who I said was chairman of the committee, A. B. Winslow, made out a check for \$275.00 and gave me the check, and then I told him that he was to write a letter off right away to Los Angeles. I suggested the form of letter that he write, telling him that he demanded his right, and I told him we would also intercede in his behalf and see what we could do, too, to supplement his request. Then I told him I would communicate with him later, and I left him at that time, and I returned to Philadelphia from Cadiz, Ohio. I communicated the information to Los Angeles, to Wake Development Company, told them that I had a chance of making a good sized sale of the stock, of the Trinidad stock and notes, and exchange it for the Great Eastern Gas stock that Mr. McCoy had.

Mr. Rose: I move that be stricken on the ground it is not the best evidence, and is a conclusion and opinion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Allowed.

The Witness: I told them to advise me as soon as they received any word. I later received word that a letter from the [153] Wake Development Company, in which they gave——

Mr. Rose: Just a second. I object to that on the ground it is a conclusion of the witness and not the best evidence.

The Court: Do you have the letter now?

The Witness: No, I don't have the letter in my possession. I did have, but a lot of letters have gone astray, and I just don't have them all.

The Court: Did you have the letter, Mr. Lucas?

Mr. Lucas: No. I checked with Mr. Mainland and we do not have it, your Honor.

The Court: Continue.

The Witness: I received a copy of the letter that he wrote in to the Wake Development Company, and a copy of the letter which they replied back to him. Later I was instrumental in sending down to Mr. McCoy another salesman by the name of O'Brien, who I knew in Philadelphia, and O'Brien and I decided that he would go down——

Mr. Rose: Just a moment. I object to that as hearsay and a conclusion of the witness.

The Court: I think he better confine himself to the fact.

Mr. Lucas: We feel it is a part of the scheme, your Honor, that is set forth in the indictment. It is covered, we feel, sufficiently, by the allegations of the indictment.

Mr. Rose: Your Honor, I know what counsel has in his mind, and I have heard it frequently. The point is that I take the position that these conversations are incompetent even coming from the witness that we have a right to cross examine, but I don't know any authority on the subject of evidence that has ever contended that this man, who knows somebody in Philadelphia named O'Brien can relate a conversation he had with O'Brien.



The Court: Well, he sent O'Brien down, he said.

Mr. Lucas: That is as far as the witness went.

The Witness: I then called Mr. McCoy on the telephone from [154] Philadelphia and I told him I was sending—I told Mr. McCoy——

Mr. Rose: Just a second. This is a subsequent conversation, manifestly. I will have to interpose my objection, your Honor, to this conversation that the witness is about to relate on the ground that no proper foundation has been laid, it is hearsay, it is incompetent and not binding on the defendants.

The Court: What was McCoy's recollection of all this?

Mr. Lucas: He has testified as to the second man coming there and all of that. It all came out from Mr. McCoy, and this is merely corroboration of the evidence of McCoy.

The Court: Continue.

The Witness: I told Mr. McCoy——

Mr. Rose: Your Honor has overruled the objection?

The Court: Yes.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told Mr. McCoy over the telephone that I was sending a Mr. Dawson down to see him, who was also connected with the deal; and I told him that Mr. Dawson had full powers to act, and that I couldn't return right then, but to be guided according to Mr. Dawson's instructions.

Q. By Mr. Lucas: Was the deal completed

between the Wake Development Company and McCoy?

A. There was a deal completed. There was a 700 share sale of stock made as a result of Mr. Dawson's call.

Mr. Rose: Just a minute. I move that that be stricken as a conclusion and opinion of the witness.

The Court: It may stand.

Mr. Rose: May an exception be noted?

The Court: Exception. [155]

### ASSIGNMENT OF ERROR NO. 29

The Court erred in overruling the objections and in denying the motion of the defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you, Mr. Carter, what has heretofore been offered in evidence as the Government's Exhibit 96, for identification——

\* \* \* \*

Q. By Mr. Lucas: ——and I will ask you if you have ever seen the document before?

A. I have.

Q. And when did you first see it, to the best of your recollection?

A. To the best of my recollection it was in the latter part of June, 1944.

Q. From whom did you receive it?

A. Mr. Danziger.

Q. Do you recall where you were when you received it?

A. That was mailed to my mother's address.

Mr. Rose: Just a moment.

The Witness: That was mailed to my mother's address.

Mr. Rose: I move that be stricken as a conclusion of the witness and not the best evidence.

The Court: Denied.

Mr. Rose: May an exception be allowed?

The Court: Exception.

### ASSIGNMENT OF ERROR NO. 30

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I call your attention to the envelope which is attached to the exhibit, and call your attention to the [156] fact that the address has been torn out, at least the greater portion thereof, only one or two letters remaining, and ask you if you can tell me whether or not you know anything about the tearing out of the address on the envelope.

Mr. Rose: Find out what is supposed to have been in there.

The Witness: I can't tell what the address was; but this is the envelope it was received in.

Mr. Rose: He has got an unintelligible answer. What was received in it.

The Witness: The contents, the exhibits here.

Mr. Rose: Very well.

Mr. Lucas: I am not through with it yet, please.

The Witness: May I look at that again?

This envelope was received at 178 Willis Avenue, New York City, addressed to Mrs. Hattie Warren.

Mr. Rose: I move that be stricken, your Honor, as not responsive to any question, and a conclusion of the witness.

The Court: Denied.

Mr. Lucas: I now offer the entire document in evidence, including the envelope, and ask that it carry the number in evidence which it now has for identification.

Mr. Rose: To which objection is made upon the following grounds, severally, and respectively: One, that there is no proper foundation laid. Now, the foundation laid for its offer is that the contents which are now stapled to said envelope were the contents received in that envelope. The envelope has an obliterated address without any indication of the addressee of said envelope. The envelope on its face shows it was dated December 5, the top letter that your Honor is examining, the first one, is dated Tuesday the 6th, without any year, and the court takes judicial notice of the fact that there was no such thing as Tuesday the 6th of December in that year, and necessarily such communication couldn't possibly be enclosed in an envelope mailed the day previously; and the other [157] two copies, with the obliterated addresses are not related dates and, therefore, they are, for the reasons stated here, incompetent and inadmissible.

Mr. Lucas: I would like to be heard, if the court please.

I would like to have the exhibit before I can speak, your Honor.

(The exhibit was handed to Mr. Lucas.)

Mr. Lucas: First, with respect to the document "Tuesday the 6th", I call your Honor's attention to the fact that counsel omitted to call your Honor's attention to the fact that, namely, there is not only no year mentioned there, but there is no month; so it could be Tuesday the 6th, assuming that the writer thereof wrote it correctly as to the day of the week and the date of the month, and it could be any month preceding the month of December of any years. Second, that the second sheet is dated December 4th, 1939, the third sheet is November 4th, 1939, one month previously, the envelope which the witness identified as being addressed to his mother some place in New York bears a date December 5th, a subsequent date to any date that is on the previous pages for the month of December, and therefore very logically the envelope could have contained, as stated by the witness, the enclosures.

Therefore, this exhibit could have logically and clearly have been received by him and could have contained the contents thereof.

Mr. Rose: I don't want to take up the time of your Honor arguing suppositions and so forth. There has been no testimony whatever on the part of this witness about these two subjects here with



the obliterated address. The purported addressees of these two letters of November 4, 1939, and December 4, 1939, are persons concerning whom not a word has been uttered by this witness. That is why I had in mind, in addition to the other objections, the grounds therefor, that they are immaterial in addition to the other objections and no foundation has been laid. [158]

The point is that we have a typewritten thing that may well have been typed onto the penciled memorandum, with no relationship to any particular transaction, and there is no year to identify as to where this thing was allegedly typed, nor by whom. As I pointed out to your Honor, we can speculate and resort to conjecture to an unlimited degree, but there are no foundational facts here to tie in this Tuesday the 6th thing with anything, and the witness now has testified that for some reason he received it in an envelope, obliterated, on a date. If he says it may have been any year, of course it may have similarly—it may be something that has been copied by this witness or some confederate of his or anything else.

The Court: What count does this refer to?

Mr. Lucas: This refers to no particular count, but I do want to point out to the court, perhaps we have all overlooked it, and I should have called it to the attention of the court sooner, that the first sheet of this, to-wit, that bearing the legend "Tuesday the 6th" was identified by the expert as having been written on the same typewriter as this here, Exhibit 96, and the witness said of both

of these, that they were typed on the same typewriter, and, further, that they were typed on the same typewriter as that used in Exhibits 70 and 85, the same being letters——

The Court: That is enough talk about this. The exhibit is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 95 for identification is in evidence.

#### ASSIGNMENT OF ERROR NO. 31

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter): [159]

Q. By Mr. Lucas: Was this arrangement between you and Mr. Danziger and the Wake Development Company with respect to exchanging correspondence containing the original letters from persons or copies thereof ever changed from the beginning until your operations ceased?

Mr. Rose: I object to it as leading and suggestive, calling for a conclusion and opinion of the witness, no proper foundational facts being present.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Allowed.

The Witness: It was in continuous operation until I ceased selling the stock or working on the deal.

## ASSIGNMENT OF ERROR NO. 32

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you, Mr. Carter, after having first shown to counsel, two sheets of paper stapled together, the first one a yellow second sheet under date of October 20, 1939, the second a white second sheet under date of October 25, 1939; I ask you to examine them and tell me whether you have ever seen them before.

A. Yes, I have.

Q. From whom did you receive them?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness, no proper foundation laid. I have in mind, your Honor, that if he received it in the mail that should be indicated. The inference here is—he has altered his modus operandi here from the inception of his testimony to subsequently by volunteering “Mr. Danziger”. At one time he was talking about Wake Development Company. Now, if he received that we ought to know, [160] first, whether he received it in the mail or whether he received it from some individual; then I could submit an objection that would have some substance to it, because it will be clear what the objection is directed to. He keeps asking from whom did you receive it. If he got it in the mail, there is no way in the world of this man knowing who dropped it in the mail.

The Court: Did you get it in the mail?

The Witness: Yes, I did.

The Court: Now, your next question.

Q. By Mr. Lucas: Now, Mr. Carter, I direct your attention to the second sheet——

The Court: Your question is unanswered. He said he got it in the mail. Your question of from whom he received it is unanswered.

Mr. Lucas: Thank you, your Honor.

Q. By Mr. Lucas: From whom did you receive it, Mr. Carter?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness, no proper foundation laid.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

### ASSIGNMENT OF ERROR NO. 33

The Court erred over objection and exception of defendants' counsel in permitting the witness J. Arthur Hazelton to relate his purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial. [161]

## ASSIGNMENT OF ERROR NO. 34

The Court erred over objection and exception of defendants' counsel in permitting the witness Adeline B. Skinner to relate her purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial.

## ASSIGNMENT OF ERROR NO. 35

The Court erred over objection and exception of defendants' counsel in permitting the witness Harold J. McCoy to relate his purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial.

By reason of said errors and other manifest errors appearing in the record herein, the defendants pray that the judgments of conviction be set aside and annulled.

Dated, Los Angeles, California, May 10, 1945.

A. BRIGHAM ROSE

Attorney for Defendants.



In the District Court of the United States in and  
for the Southern District of California, Cen-  
tral Division

Before the Honorable Claude McColloch.

No. 15173—Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

REPORTER'S TRANSCRIPT OF  
PROCEEDINGS

Los Angeles, California

January 16, 1945

Appearances for the Plaintiff: Charles H. Carr, Esq., United States Attorney; by V. P. Lucas, Esq., Assistant United States Attorney. For the Defendants: Jacob Morris Danziger, Trinidad International Petroleum, Limited, and Wake Development Company, A. Brigham Rose, Esq., 205 South Broadway, Los Angeles, California. For the Defendant: Warren C. Carter, Ames Peterson, Esq., 639 South Spring Street, Los Angeles, California. [1\*]

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\* Page numbering appearing at foot of page of original Reporter's Transcript.

Los Angeles, California,

Tuesday, January 16, 1945, 10 A. M.

The Clerk: No. 15173, criminal, United States of America vs. Jacob Morris Danziger, et al. Arraignment and plea of Trinidad International Petroleum, Limited, and Wake Development Company. For trial.

Mr. Lucas: The government is ready, if your Honor please.

Mr. Rose: I have no authority or any knowledge of the attempt to arraign any corporate defendants here.

Mr. Lucas: If the court please, the citation and the summons has been issued and served, and the marshal's return thereon made, though I understand from the clerk it is not yet in the file.

The corporate defendants are Wake Development Company and the Trinidad International Petroleum, Limited. Mr. Danziger, one of the defendants, is present in court, and as your Honor knows, the matter of having a corporate defendant is somewhat ethereal, but they have been served, and their presence by an officer of the two corporations should be noted. I want to state that for the record, that I am fully advised and verily believe that Mr. Danziger is still an officer and a director in each of the corporations.

Mr. Rose: That is pure assumption, your Honor, on opposing counsel's part. There is no showing before the court, and I question whether Danziger was even served with [2] any such document.

The Clerk: The marshal is sending the returns down. I didn't find them in the file, and I called him and they are sending the returns down now.

Mr. Rose: I want the record to clearly indicate so far as my client is concerned—counsel is addressing the court—we are not advised or authorized to enter any appearance on behalf of the corporate entities indicated. Without obligating myself, in connection with the matter of the identification of the corporate defendants in connection with the charges contained in this indictment, I submit that a corporate entity is subject to indictment the same as a person, and so far as I know the responsibility for the corporate acts are one thing, and the responsibility for an individual's act is a separate and other responsibility.

Mr. Lucas: If the court please, I quite agree with counsel that corporations are subject to indictment, and we have here only the question of their appearance before the court. Prosecution of corporations are provided for under Section 347 of Title 28, the leading case on the subject being *Albrecht vs. United States* in 273 U. S. at page 1, and the records of this court will show that an application for a citation and summons has been made, an order directing the service of the citation has been been, and as the clerk presently informs us the return will be here. If there is any question about the authority of Mr. Danziger with those [3] corporations, I suggest that the matter can be very quickly determined by the taking of

some testimony and finding it out, so that we can proceed.

Mr. Rose: Have I the permission of your Honor to address the court on the subject of the situation with respect to my client this morning.

The Court: Yes.

Mr. Rose: I have caused to be served on opposing counsel a copy of an affidavit subscribed to yesterday evening, and I have caused to be handed to the clerk of this department an original and a copy, pursuant to the rules. May I inquire whether your Honor has seen it.

The Court: I read it, Mr. Rose.

Mr. Rose: Out of an abundance of caution, I checked with my office this morning to ascertain whether anything in this morning's mail had arrived to bring this matter right up to the moment, and there is no advice as yet from the Ninth Circuit Court in connection with the pending application for an alternative writ of either mandamus or prohibition directed against the proposed proceedings herein. That is, we have received this morning's mail, but there is nothing from the Ninth Circuit.

I desire to inform your Honor that Mr. O'Brien, the clerk of the court, in the past few days informed me in a note that he expected some action to be taken on that matter very shortly. But what action up to this minute has been [4] taken is not known to me, your Honor.

The Court: What other preliminaries are to be disposed of at this time?

Mr. Lucas: The matter of the signing of waiver of the jury, and the matter of the notice of the appearance of the two companies, and that is all of a preliminary nature. The matter of waiver of jury can go until a decision has been made on counsel's application for a continuance. I take it that is the purpose of the affidavit that has just been served on us here.

The Court: Here is the difficulty about a jury waiver. Even though I should direct a plea of not guilty, which is within my power, to be entered for the corporations, there would be no one here representing them or asserting the right to represent them. I don't see how a jury waiver can be made on their part.

Mr. Lucas: Very well, then we can proceed to trial with a jury. No objections whatever.

The Court: I don't see any escape from that. In considering this case preliminarily, my thought was to direct pleas of not guilty be entered for the corporations, and to ask Mr. Rose, as an attorney for the court, because he is in the court in another capacity, to appear in the case as attorney for the corporations. I thought that was within the proprieties. But Mr. Rose has indicated that he has no authority, or feels he has no authority to appear for the [5] corporations. I wouldn't ask him to waive a jury for them, so long as they remain defendants in the case. I don't think it would be within the proprieties for him to waive a jury for them if he is not appearing for them.



Mr. Lucas: I can understand your Honor's view in that matter.

Mr. Rose: I believe, your Honor, unless these advices have come to you in my absence, that I should indicate to the court what occurred in Judge McCormick's court after your Honor, at the time of the Saturday morning session, directed us to appear in Judge McCormick's court. His Honor took the position that your reference of this matter to his department was apparently one of deference by a visiting judge to a senior judge here, and indicated that so far as his Honor was concerned this matter has been transferred to your Honor, and that you are part of the court here, and that all matters were to be passed on by your Honor without regard to the feeling on your Honor's part that Judge McCormick should pass on matters of continuances and so forth. I don't know whether that information was conveyed to your Honor or not.

The Court: My position would involve this difficulty for me were the situation you present to arise in my own district. My disposition, and I think it will be my ruling—I state it only provisionally now—my disposition is to proceed with the trial of this case, with considerable [6] doubt, however, as to the effect on the defendants' position, in view of a very recent arraignment of them, and in view of the representations made by affidavit as to the residence of necessary witnesses, the distance from here, and the type of information that he would expect to elicit from them. In my own district my

approach would not involve the difficulty that it does for me here. Judge McCormick having set the case for trial originally, and you having gone before him a second time, I am disposed to go ahead with the trial of the cases, reserving for final determination, as the case unfolds, the effect on the defendant's position, whether he has been unduly prejudiced or not under the circumstances that have been tentatively laid before me.

I am not ruling at this moment, but that is my present feeling. You might let me see the returns that have just come in.

Mr. Lucas: Yes. The marshal that made the returns is present in the court room, your Honor.

The Court: Mr. Rose, would you like to inspect them?

Mr. Rose: Yes, your Honor.

(The documents were handed to Mr. Rose.)

Mr. Rose: My offhand impression, your Honor, is that the marshal has resorted to the practice in civil proceedings of leaving a copy of the document with the secretary in a lawyer's office. I want your Honor to know, as I indicated to opposing counsel, if we were required to go to [7] trial everybody would fare better by having the case, of the complexities involved herein, tried by your Honor without a jury. I recognize the power of this court to appoint me to appear on behalf of any defendant to the charge. The only point I have in mind now, your Honor, is that I would like to give the subject some study as to whether I may, seemingly, be placed in the position of representing

adverse interests in this matter. In other words, while I hazard a guess if we were to proceed with the evidence here certain evidence would be presented as against respective defendants and, likewise, against the respective corporate entities, I was wondering in my mind, having had no opportunity to give that any thought, whether it is likely that might present a conflict or whether I could not—if we are obliged to proceed—in order to expedite this trial, arrange for an authorized appearance on the part of the corporations. I haven't given that any thought at all, your Honor, and your Honor no doubt recognizes the thing that I have in mind at the moment without having given it any study.

The Court: Do you want to take until 2 o'clock?

Mr. Rose: I think it might be advisable, your Honor.

The Court: Do you have any objection to that?

Mr. Lucas: I don't have any objection to that if the court thinks that is a reasonable time.

Mr. Rose: In the meantime, your Honor, I will endeavor to find out from the North whether any action has been taken [8] on the application in the Circuit Court.

The Court: I am quite sure I shall ask you to go to trial, Mr. Rose, with the mental reservation I stated, should it develop at this trial that the interests of your client have been seriously affected by the recent arraignment, and time was not thus allowed for taking important testimony, important to your defense, by deposition, and the

other things that are necessary to show diligence and the like under the authorities. It seems to me only the trial could develop that. It is the kind of a thing that can't be passed on in advance.

Mr. Rose: Well, your Honor will note that from the incident that presents itself to the court this morning. For example, this belated endeavor to arraign corporate defendants in this haphazard manner is another indication of the fact that the years have rolled by without any indication, even, so far as arraigning two defendants about whom the majority of the indictment—

The Court: I don't think there is anything to be gained by further discussion of it.

Mr. Rose: Very well.

The Court: I have said all I feel I should say at this time.

Mr. Lucas: Will your Honor instruct the witnesses to return if we adjourn?

The Court: The witnesses will return at 2 o'clock. [9] The defendants now in custody will remain in custody, and the defendants now on bail will remain on bail. Case continued until 2 o'clock.

(Whereupon, at 10:30 a. m., an adjournment was taken until 2 o'clock p. m. of the same day.) [10]

Los Angeles, California,

Tuesday, January 16, 1945, 2:00 P. M.

The Clerk: 15173, United States vs. Jacob Morris Danziger, et al.

Mr. Lucas: Ready, your Honor.

Mr. Rose: It is my duty to inform your Honor that during the noon recess I have made inquiry from the Ninth Circuit Court, and from the information I have it appears that there is not pending any writ proceedings at this time, that is, since 1 o'clock; so aside from that factor, which is one of the declarations contained in the affidavit in support of objection to proceed to trial, I submit for ruling to this honorable court the various grounds set forth in the affidavit which has been presented to your Honor this morning, eliminating by the oral advices now given the subject of the pending matter in the Ninth Circuit Court.

The Court: The trial will proceed. Objections are overruled and exceptions allowed.

Mr. Lucas: Your Honor, I understand there was ordered this morning—or was it only tentative?—the matter of noting the appearance for the Wake Development Company and the Trinidad International Petroleum, and entrance of a plea for those two corporations. I think we should dispose of that matter before we proceed further.

The Court: Are you disposed to object to my appointing you to represent them? [11]

Mr. Rose: Your Honor, in the absence of knowing what the evidence may be with respect to the



separate defendants here, I would be inclined to think it my duty to object to my appointment to represent the defendants, with the possibility of their interests being conflicting in connection with these proceedings.

The Court: Mr. Rose, I will appoint you to act as attorney for the corporate defendants, subject to developments at the trial that may cause you to feel that your interest has become adverse.

Mr. Rose: Your Honor will note an objection to the appointment. I respectfully accept the order at the direction of the court.

The Court: Objections are noted and exception allowed.

Mr. Lucas: May we have the formality of the clerk entering the plea of not guilty as to those two corporations?

The Court: The court directs pleas of not guilty be entered for the corporate defendants.

Mr. Lucas: Then, as to the matter of Warren C. Carter, of course, this matter is not on trial as to him, he having heretofore pleaded, but I suggest that the matter of remaining counts as to him go over until the conclusion of the trial. There are 16 remaining counts against that defendant. I suggest that the matter of those counts go over until the conclusion of this trial, and that the matter of sentence also go over. [12]

Mr. Peterson: As representing Mr. Carter, I join in the suggestion and motion of counsel for the government.

The Court: Mr. Lucas, your suggestion is that

the trial proceed only as to the defendant Danziger and the corporate defendants?

Mr. Lucas: That's right. I don't think the defendant Carter actually and technically is on trial.

The Court: He has pleaded guilty as to one count?

Mr. Lucas: Yes; and it is the intention of the government to dispose of those matters other than by trial, at the present moment.

The Court: That amounts to the government asking for separate trials?

Mr. Lucas: No, it doesn't ask for a severance at all. It is just merely an indication on the part of the government at this time.

The Court: Suppose this trial proceeded along the lines you have suggested, and at the conclusion of the trial either you acted or I felt, within the range of my discretion, that the trial should proceed as to the defendant Carter as to counts other than the one on which he has pleaded guilty?

Mr. Lucas: Then, as to that matter, your Honor, it would be the disposition of the government to dismiss those counts. I will say quite frankly that is our intention at the conclusion of this trial, subject to situations that [13] might develop in the course of the trial, to dismiss those remaining counts against the defendant Carter. So, actually he having pleaded to count 17, it is not our intention to put him on trial as to the remaining counts. I wanted that clearly understood by the court and by Mr. Carter and his counsel.

Mr. Rose: I would be inclined to note for the

record that we strenuously object to this form of procedure. In the first place, opposing counsel has no locus standi to move the dismissal of the charge. We find ourselves in the dilemma to which we have diverted so frequently here by reason of the contention made, which, of course, is always good, that a co-defendant was incarcerated in jail and unable to make bond, and it is under that——

The Court: Mr. Rose, I will cut the matter short. I don't want to complicate it the way you are suggesting. The trial will proceed as to all defendants, as to all counts on which the pleas of not guilty have been ordered or directed.

Mr. Lucas: May I confer with counsel?

If your Honor please, at this time, in view of what your Honor has already said, I now move the dismissal of Counts 1 to 16 as against the defendant Warren C. Carter.

Mr. Rose: We resist the motion on the following grounds, your Honor. Firstly, that any such act on the part of this honorable court would attempt to change the status of the co-defendants, in so far as the fact that they are co-defendants, [14] and that the certain testimony that may be given may be binding on one or the other parties; and, furthermore, on the ground that it would change our position, that if a co-defendant seeks to charge us by certain testimony on his part he would lose his status as an accomplice, if such were to be developed in the case. The indictment specifically charges us jointly with certain particular acts, and they seek to bind us by the acts and conduct in

distant places, where the reading of the indictment clearly confesses that my client was not present or a party to this transaction, and for your Honor to grant this motion would certainly jeopardize our position. I feel that the co-defendant who seeks to enter a plea to one of 17 counts may be deemed to be looking for some favors and privileges, and to have the court remove the overhanging threat of a possible conviction as to that particular defendant a mere matter of 16 counts, certainly would change his status and disposition to testify in this case. I think it would be unfair, and we resist it on the grounds stated severally.

The Court: Mr. Rose, is it your position that you oppose the government's first proposition, that the trial should be deferred as to the defendant Carter?

Mr. Rose: Yes, your Honor, because I feel that he should be bound by his own testimony, being a party defendant in all these proceedings, while my client is in jeopardy. In this proceeding I now have three of them who apparently [15] are sought to be bound by his acts.

The Court: Mr. Rose, I understand that when the prosecution orders dismissal of a criminal matter, with rare exceptions, under the federal rules it is entirely in the hands of the Attorney General.

Mr. Rose: That is correct. That is why I say counsel has no locus standi. It is my understanding that the Attorney General has not suggested that these 16 counts be dismissed.

The Court: Do you have that authority or can you get it?

Mr. Lucas: Yes, I have authority to proceed or I wouldn't proceed.

The Court: I would assume so. The motion is allowed and exceptions are noted, Mr. Rose.

Mr. Lucas: I think we should at this time, if we are going to proceed without the jury, have the waiver of the jury properly signed by all concerned, if the court please.

The Court: Let me make it plain it makes no difference to me whether the trial is with or without a jury.

Mr. Lucas: I think counsel wanted to proceed without a jury. I am perfectly willing to proceed without a jury, and it is entirely up to the defendant. I want to get the government on record in that regard.

Mr. Rose: I made it clear, your Honor, we have agreed to try this case, if we are obliged to try it, without a jury. I don't think I want to supplement that by repeating [16] what I have said before.

Mr. Lucas: You used the word "obliged," Mr. Rose.

Mr. Rose: I have already gone on record as waiving trial by jury.

Mr. Lucas: I think the local rules here, or perhaps the statute itself, your Honor, requires a written waiver.

The Clerk: As to the three defendants?

Mr. Lucas: Yes.



The Court: Let it be signed, if it is the intention of all counsel to proceed without a jury.

Mr. Peterson: I take it, Judge—I represent Mr. Carter who has heretofore entered a plea, which the record shows has been entered, and the other counts have been dismissed—that I may be excused? I will try to be here most of the trial. This afternoon I find it very inconvenient to be here.

The Court: I see no difficulties about that in view of the turn that the case has taken.

Mr. Peterson: Thanks.

The Court: Provided it is with the clear understanding of your client.

Mr. Peterson: Yes.

The Court: That is between you and your client.

Mr. Peterson: Oh, yes.

Mr. Rose: Of course, your Honor, I do not know of any statutory proviso to this form. Upon inspection of the same, [17] there seems to be some nomenclature in there which, in view of the state of the record, would appear paradoxical. I am perfectly willing to either sign or orally waive a trial by jury in behalf of the respective defendants, one of whom I appear for without direction of the court, and for those for whom I am appearing pursuant to the order of your Honor.

This statement here, “I have advised the defendant fully”—it is using the singular pronoun; it would be interpreted as their rights—— “\* \* \* request for a trial without a jury is understandingly made.” In regards to Mr. Danziger, I can

have him orally state and sign a waiver of trial by jury for himself. Now, I am willing to indicate my disposition to waive, and do waive a trial by jury for all of the defendants for whom I am appearing, but I cannot——

The Court: What is the local rule?

Mr. Lucas: Mr. Frankenberger, isn't it the local rule that we have to have the written waiver of all the defendants?

Mr. Rose: The only difficulty I find here, your Honor, is waiving by the corporate defendants.

The Court: I understand. Is there a local rule on it? Mr. Rose, you sign and have Mr. Danziger sign, and I will accept your oral statement as to the corporate defendants.

Mr. Rose: Very well, your Honor.

Mr. Lucas: Mr. Ladd.

The Court: Swear the witness. [18]

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WILLIAM LADD,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: William Ladd.

The Clerk: L-a-d-d?

The Witness: L-a-d-d.

Direct Examination

By Mr. Lucas:

Q. Mr. Ladd, what is your business or occupation?

(Testimony of William Ladd.)

A. I am a banker employed by the Bank of America.

Q. How long have you been with the bank?

A. I have been with the bank better than 13 years.

Q. What is your position with the bank?

A. Assistant cashier and chief clerk.

Q. What branch are you immediately working out of?

A. The Fourth and Spring branch.

Mr. Rose: Excuse the interruption. Your Honor, I am having extreme difficulty in hearing this witness.

Q. By Mr. Lucas: Speak a little louder, if you can, Mr. Ladd.

A. I will.

Q. You are under subpoena here to produce certain records, are you, Mr. Ladd?

A. Yes, I am.

Q. In response to that subpoena did you bring [19] certain records with you? A. Yes, I did.

Q. And those records that you brought with you are in your custody and regularly kept by the bank and in your custody as chief clerk?

A. That's right, they are.

Q. Now, will you show me those records, Mr. Ladd?

Mr. Lucas: I think, counsel, you have a photo-static copy of these documents.

Mr. Rose: I would be unable to say until I look at them.

(Testimony of William Ladd.)

The Court: Have you cleaned up the record as to these other defendants, Mr. Lucas, Callahan and Wright?

Mr. Lucas: Callahan, if your Honor please, is in the Army. His present whereabouts is unknown to us with detail. In other words, we had him located and identified in a certain Company, and so on, in Kentucky at one time. We will not proceed to trial against Callahan at this time or any other time, and I now move the dismissal of the case as against the defendant John J. Callahan.

As to the defendant W. W. Wright, he has never been contacted and the government is not sure that his whereabouts will ever be known, and I now move the dismissal of the case against Wright.

The Court: The motions are allowed.

Q. By Mr. Lucas: I ask you, then, Mr. Ladd, to [20] tell me if you have brought your collection record No. 310-3036?

A. Yes, I have.

Q. And what is that record?

A. That record represents a check drawn on The Miners National Bank of Pottsville, Bankers Trust Company, New York; that is, through the Bankers Trust Company of New York; the endorser, Wake Development Company. Collection describes a check, the item was, our record indicating that the check was sent to the Bank of the Manhattan Company, representing a check for \$1000.00.

(Testimony of William Ladd.)

Q. Does your record indicate who presented that check to you or left it with you?

A. That is indicated by the endorsement of Wake Development Company.

Q. I show you, Mr. Ladd, a document, after having first shown it to counsel, and ask you if you can tell by an examination of the document whether it is the check mentioned in your collection record?

A. Yes, that appears to be the check.

Mr. Lucas: We offer the check at this time, if the court please, as Government's Exhibit 1, and the collection record of the bank to which the witness has already referred, as 1-A, or ask that both be marked as 1, whatever the convenience of the clerk and the court is.

Mr. Rose: To which objection is had upon the following grounds: One, no proper foundation has been laid. The [21] same is irrelevant and immaterial to any issue in this case. On behalf of Danziger as an individual defendant, the same is not binding, and no proper foundation has been laid in respect to these purported transactions as to him.

And as to the defendant Trinidad Company, that no proper foundation has been laid, and it is immaterial and not binding.

The Court: The exhibits are admitted, subject to being connected up.

The Clerk: The check will be No. 1 and the collection record No. 2.



(Testimony of William Ladd.)

(The documents referred to were marked as Government's Exhibits Nos. 1 and 2, and were received in evidence.)

Q. By Mr. Lucas: Have you your collection record No. 310-0807?

A. Would you repeat that number again, please?

Q. 310-0807, dated March 7, 1940.

A. Yes, I have that before me.

Q. What does that collection record show?

A. That is also a check endorsed by the Wake Development Company; a check drawn on the Farmers National Bank, Mullica Hill, New Jersey; it is their cashier's check No. 2619, in the amount of \$300.00. The item was sent to our correspondent bank, Philadelphia National Bank in Philadelphia, Pennsylvania. [22]

Q. Does your collection record show it was collected?

A. Yes, our collection record shows the item was paid.

Q. Does it show for whose account it was paid and credited?

A. The collection is indicated that it was credited to the account of the Wake Development Company.

Q. Very well.

Mr. Lucas: Mr. Rose, I am sure there has been given to you a photostatic copy of each of these documents.

We offer this in evidence as the government's exhibit next in order.

(Testimony of William Ladd.)

Mr. Rose: Your Honor, since we are not confronted here with the usual situation, your Honor is receiving a number of these documents subject to being connected up, I do not want to interrupt the proceedings by certain objections which may become rather tiresome here. It seems to me, your Honor, that those exhibits speak for themselves if they are admissible on any hypothesis, and to ask the witness to tell what appears on a typewritten document would, necessarily, be subject to the objection that the document speaks for itself. As to this particular document now being offered, unless counsel indicates the theory upon which he is offering these documents, and as against which defendant and which count, I necessarily will have to encumber this record by interjecting my objection.

The Court: Take all the time you want, Mr. Rose. [23] Your client is charged with a very serious offense and serious consequences. Your duty to him is to protect his interests in every way you feel necessary and proper.

Mr. Rose: I am objecting to this document here on the following grounds: One, no proper foundation has been laid. Two, as to the defendant Danziger, the document on its face appears to not relate to any purported act or transaction by him personally. And the same as to the corporate defendant the Trinidad Company. The same is irrelevant and immaterial to any issue contained in this indictment.

(Testimony of William Ladd.)

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 3.

(The document referred to was marked as Government's Exhibit No. 3, and was received in evidence.)

Q. By Mr. Lucas: Did you produce collection record No. 310-0505?

A. Yes, I have that record before me.

Q. And what does that record show?

Mr. Rose: Object to it on the ground that the record speaks for itself. It merely calls for a conclusion and opinion of the witness.

The Court: Overruled.

The Witness: The collection record indicates that it was a check drawn on the Safety Fund National Bank, Fitchburg, Massachusetts; check signed by Mr. F. A. Russell, [24] in the amount of \$350.00; endorsed by the Wake Development Company; sent to our correspondent Empire Trust Company, New York City.

Q. Was it collected?

A. The item was collected and paid and credited.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Objection is made to said offer upon the following grounds: One, no foundation and no proper foundation has been laid. Two, the said instrument on its face, insofar as the defendant Danziger is concerned, does not reflect any pur-

(Testimony of William Ladd.)

ported transaction with him. And as to the defendant Trinidad Corporation, likewise. As to the defendant Wake Development Company, objection is made on the ground, in addition to those already interjected, that it is irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 4.

(The document referred to was marked as Government's Exhibit No. 4, and was received in evidence.)

Q. By Mr. Lucas: Did you produce your collection record No. 310-1682?

A. Yes, I have that record.

Q. What is that record?

A. It indicates a check drawn on the First National Bank at Farmingdale, New Jersey; a check signed by [25] W. A. Magill, in the amount of \$300.00.

Q. How much?

A. \$300.00. Endorsed by the customer of Wake Development Company. Sent to our correspondent bank, the Manhattan Company. The record indicates that the item was paid.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Excuse me, your Honor. May I have the reporter read back the last remark of the witness?

(The record was read.)

(Testimony of William Ladd.)

Mr. Rose: Objection is made to said offer on the following grounds, severally: As to the defendant Danziger, the instrument on its face fails to reflect any purported transaction as to him. Likewise as to the defendant Trinidad Corporation. Furthermore, that no proper foundation has been laid. The same is irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 5.

(The document referred to was marked as Government's Exhibit No. 5, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced your collection record No. 310-2675?

A. I have a collection record here No. 2673.

Q. It may be that I have made a mistake here. Is it dated May 3, 1940? [26]

A. Yes, it is.

Q. In the sum of \$1370.00?

A. That is the amount.

Q. What is shown on that collection record?

A. The collection record indicates the item was drawn on Miners National Bank of Pottsville, Pennsylvania, by Elizabeth T. Parsons, in the amount of \$1370.00; endorsed by Wake Development Company; sent to our correspondent bank, Philadelphia National Bank, Philadelphia, Pennsylvania; and the item indicates that it was paid.

Mr. Lucas: We offer that as government's exhibit next in order.



(Testimony of William Ladd.)

I am perfectly willing to stipulate that counsel may be deemed to have a running objection on behalf of his clients Trinidad and Danziger as to all of these exhibits, and it would save the repetition of the objection. If it is agreeable to counsel and the court.

Mr. Rose: I wish I could do that, but I don't think it is safe, your Honor. The Ninth Circuit seems to still believe that if you have an objection it should be interjected, and there is no such thing as a running objection, although we have accepted them in the local courts.

The Court: That is all right.

Mr. Rose: On behalf of the defendant Danziger, your Honor, objection is had to this instrument upon the ground that no proper foundation has been laid; that the instrument [27] on its face purports to reflect a transaction with a person other than the said defendant Danziger; that the same is irrelevant and immaterial as to both. And in respect to the several objections specified, that the same are urged on the same grounds as to the defendant Trinidad. As to the defendant Wake Development Company, I submit that the same is irrelevant and immaterial, and that the same doesn't tend to prove any issue contained in this indictment.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 6.

(The document referred to was marked as

(Testimony of William Ladd.)

Government's Exhibit No. 6, and was received in evidence.)

Q. By Mr. Lucas: I show you a check, Mr. Ladd, and ask you to examine the check in connection with the collection record you have just testified to, and tell me whether or not that is the check that is represented by this collection record?

A. Yes, this appears to be the same check.

Mr. Lucas: We offer the check at this time, if the court please, as government's exhibit next in order.

Mr. Rose: May it be deemed, your Honor, that all of the objections noted to the purported record reflecting this particular item may be deemed re-interjected as to the check itself on all the same grounds?

The Court: It may.

The Clerk: U. S. No. 7. [28]

The Court: The check is admitted subject to being connected up.

(The document referred to was marked as Government's Exhibit No. 7, and was received in evidence.)

Q. By Mr. Lucas: I show you, after having first shown to counsel, a check in the sum of \$350.00 signed by Russell, and I will ask you to examine that in the light of Government's Exhibit No. 4, and tell me if that check is the check collected as shown by Government's Exhibit No. 4?

A. Yes, that appears to be the same check.

(Testimony of William Ladd.)

Mr. Lucas: I offer that check as the government's exhibit next in order, being a check for \$350.00 payable to Wake Development Company, and signed by F. A. Russell.

Mr. Rose: May it be deemed, your Honor, that the grounds of objection offered to the record which has been received by the court and is now Exhibit 4 may be deemed interposed to the check itself?

The Court: It may; and the check is admitted subject to being connected up.

The Clerk: U. S. No. 8.

(The document referred to was marked as Government's Exhibit No. 8, and was received in evidence.)

Q. By Mr. Lucas: Have you brought with you your collection record No. 310-2879?

A. Yes, I have. [29]

Q. And what does that collection record show?

A. This collection record shows a check—I beg your pardon, it shows a note signed by one Elizabeth Parsons, payable through Miners National Bank, Pottsville, Pennsylvania.

Q. Who was the payee in the note, if that is shown on your record?

A. The record does not indicate the payee. The endorsed was Wake Development Company. It is altogether possible it could have been a different payee.

Mr. Rose: I move the latter statement be stricken as voluntary and a mere conclusion of the witness.

(Testimony of William Ladd.)

The Court: Stricken.

Q. By Mr. Lucas: What does the record show, if it does show, as to who presented the note to the bank?

Mr. Rose: Object to that as calling for a conclusion, the record being the best evidence of what it shows.

The Court: Let the record speak for itself, Mr. Lucas.

Mr. Lucas: Very well. We offer that as government's exhibit next in order.

The Court: Mr. Rose hasn't seen that.

Mr. Lucas: Yes. Haven't you, Mr. Rose?

Mr. Rose: Is this part of that group you have shown me originally? I don't want to profess to have any memory of these documents until I glance at them.

Mr. Lucas: Yes, that is one of the original ones I showed you. [30]

The Court: Is the note next?

Mr. Lucas: We haven't got this yet.

The Court: The note went back to the maker, of course?

Mr. Lucas: That's right, but I think we have it.

The Court: Are you going to put it in now, following this?

Mr. Lucas: If we have it immediately available, yes. Mr. Mainland is trying to find it.

Mr. Rose: It would probably expedite matters if objection was entered to both, if they both relate to one transaction. Have you got that note handy?

(Testimony of William Ladd.)

The Court: Suppose you just lay this bank record aside until Mr. Mainland finds the note, and put them in together as being a note, rather than a check?

Mr. Lucas: Yes.

Q. By Mr. Lucas: Have you brought your collection record No. 310-3518?

A. Yes, I have.

Q. What is that collection record?

A. This collection record indicates a check drawn on the Miners National Bank of Pottsville, Pennsylvania, by Elizabeth T. Parsons, in the amount of \$1500.00; endorsed by Wake Development Company. The record indicates that the item was paid.

Mr. Lucas: We offer that as government's exhibit next in order. [31]

Mr. Rose: Mr. Lucas, are there going to be any collateral papers going to be offered in connection with this record?

The Court: They have a check there.

Mr. Lucas: We will have a check.

Mr. Rose: Don't you think it would help a lot if you offer them together, so I wouldn't have to repeat objections, and so forth?

Mr. Lucas: Yes, I am trying to get organized to the point where I can put those in. I have that right in my hand now, and I will tie it right in.

Q. By Mr. Lucas: Now I show you a check dated December 16, 1940, I believe, signed Elizabeth T. Parsons, Pay to the order of Wake De-



(Testimony of William Ladd.)

velopment Company, and ask you to examine the check in connection with your collection record, and tell me if the check is the same as that mentioned in your collection record.

A. Yes, this appears to be the same check.

Mr. Lucas: I now offer the collection record for \$1500.00 and the check for \$1500.00, as the government's exhibit in regular order.

Mr. Rose: To which objection is had on behalf of the defendant Danziger that the same is irrelevant and immaterial and is not binding on him. The same objection and the grounds as to the corporate defendant other than the Wake Development Company. With regard to the [32] defendant Wake Development Company, no proper foundation has been laid; it is irrelevant and immaterial and not tending to show any of the matters contained in the indictment.

The Court: The exhibits are admitted, subject to being connected up.

The Clerk: Mr. Lucas, just as one exhibit?

Mr. Lucas: Yes.

The Clerk: U. S. No. 9.

(The documents referred to were marked as Government's Exhibit No. 9, and were received in evidence.)

Q. By Mr. Lucas: Mr. Ladd, I will hand back to you your collection record No. 310-2879, being the collection record on the note item that we referred to a moment ago, and in addition I will hand you what appears to be a—I don't think I have

(Testimony of William Ladd.)

shown this to counsel—what appears to be a note signed by Elizabeth Parsons, and after showing it to counsel I will ask you about it.

I will ask you now, as I hand you this document, to examine that and your collection record, and tell me, if you can, whether or not the collection record refers to the identical document which you have in your hand?

A. Yes, this appears to be the same item.

Mr. Lucas: We now offer the collection record and the note, if the court please, as one exhibit.

Mr. Rose: Object to its introduction and acceptance in evidence as to the defendant Danziger on the ground that [33] no proper foundation has been laid; the same is irrelevant and immaterial. The same as to the Trinidad Company. So far as the defendant Wake is concerned, the same is incompetent and immaterial and doesn't tend to establish the commission of any of the charges set forth in the indictment.

The Court: The documents are admitted subject to being connected up.

The Clerk: U. S. No. 10.

(The documents referred to were marked as Government's Exhibit No. 10, and were received in evidence.)

Q. By Mr. Lucas: Have you produced, Mr. Witness, a check for \$7000.00?

A. Yes, I have a check for that amount.

Q. May I see that, please?

(Testimony of William Ladd.)

(Witness hands counsel a paper.)

Q. I show you, after having first shown to counsel, the check which you handed to me dated July 30, 1937, on the Miners National Bank of Pottsville, the check on its face says Pay to the order of Arthur Winslow \$7000.00, and ask you to examine the check and tell me whether or not it was presented through your bank?

A. The check was presented through our bank.

Q. Does it show it was paid?

A. The item has been paid.

Mr. Lucas: We offer this as the government's exhibit [34] next in order, if the court please.

Mr. Rose: To this offer, your Honor, we interpose the following objections, severally: One, that the instrument on its face bears the date which makes the item remote, and that said item cannot pertain or relate, assertedly, to any transaction or transactions constituting the charges contained in the indictment. As to the defendant Danziger, the same on its face purports to reflect no connection with said defendant, nor the Trinidad Corporation. No proper foundation has been laid, the same is irrelevant and immaterial and not competent to prove any issue on any of the charges contained in the indictment.

The Court: Admitted, subject to being connected up.

The Clerk: U. S. No. 11.

Mr. Lucas: Did you say 11?

(Testimony of William Ladd.)

The Clerk: Yes, 11.

(The document referred to was marked as Government's Exhibit No. 11, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced another check, Mr. Ladd, for \$100.00?

A. Yes, I have.

Q. May I see that, please?

You have handed me a check dated April 13, 1938, Pay to the order of Wake Development Company, \$100.00; I will ask you to examine that check and tell the court whether or not it was presented through your bank for collection, [35] and whether or not the item was paid.

A. Yes, the item was presented through our bank for collection, and was paid.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Objection to this offer is interposed upon the following grounds, severally: That the instrument on its face purports to reflect a transaction prior to and other than with any person mentioned or transaction referred to in the indictment. There has been no proper foundation laid for its admissibility on any theory. The same as to the defendant Danziger, it is incompetent. Likewise, as to defendant Trinidad, the corporation. As to the Wake Development Company, that it is immaterial.

The Court: Admitted subject to being connected up.

(Testimony of William Ladd.)

The Clerk: U. S. No. 12.

(The document referred to was marked as Government's Exhibit No. 12, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced collection record No. 310-1191?

A. Yes, I have.

Q. What does that collection record refer to?

A. It indicates it is a check drawn on the First National Bank in Yonkers, in the amount of \$390.00. The check was endorsed by Wake Development Company; sent through our correspondent bank The Manhattan Company in [36] New York; and the item was paid.

Mr. Lucas: Counsel, I believe this is one you have not heretofore been shown. I haven't seen it myself. Pardon my inadvertance.

Mr. Rose: Do you endeavor to associate any individual with this, or is this from bank to bank?

Mr. Lucas: Here is the check that goes with it.

Q. By Mr. Lucas: I show you, Mr. Ladd, a check drawn on the First National Bank of Yonkers, Pay to the order of Wake Development Company, \$390.00, and ask you to study the check in connection with your collection record that you have just referred to, and tell me whether or not the check is the identical item mentioned in the collection record.

A. Yes, this appears to be the same check.

Q. And that check was paid on the collection record?

A. That check was paid.



(Testimony of William Ladd.)

Mr. Lucas: We offer the two documents as one exhibit, if the court please, government's exhibit next in order.

Mr. Rose: As to the defendant Danziger, your Honor, we object to this offer and each and every part thereof, on the ground that the same is not binding on him, no proper foundation laid. The same as to the corporate defendant Trinidad Company. As to Wake Development Company, the same is immaterial and cannot be received to sustain any of the charges contained in the indictment.

The Court: Admitted subject to being connected up. [37]

The Clerk: U. S. No. 13, one exhibit.

(The documents referred to were marked as Government's Exhibit No. 13, and were received in evidence.)

Q. By Mr. Lucas: Have you anything else, Mr. Ladd, under the subpoena, or otherwise, that you haven't shown me?

A. Only a photostatic copy, I believe, of a check, which were were unable to produce the original records.

Q. You have a photostatic copy?

A. That's right.

Q. Are you able, from the photostat itself, to tell me when—what is the amount of that?

A. \$7000.00.

Q. Can you tell me whether or not that is the same \$7000.00 that we heretofore offered an exhibit on in the form of a Winslow check?

(Testimony of William Ladd.)

A. Yes, this is the same check.

Q. And you have a collection record of this check?

A. We do not have the original collection record.

Q. You have a photostat of the collection record?      A. Photostat, yes.

Q. Do you recognize that which you have in your hand as a true copy, photostatic copy, of your collection record?

A. Yes, this appears to be a true copy.

Q. Do you remember when it was taken, the date of it?

A. No, I don't. I do not know when this photostat was taken. [38]

Q. Can you examine it in connection with the check and state whether or not it is a true copy of the collection record of your bank, whereby that \$7000.00 check was collected?

Mr. Rose: Objected to as calling for a conclusion and opinion of the witness. It is incompetent for any purpose.

The Court: He may answer.

The Witness: Yes, I believe this is the copy, photostatic copy of the original.

Mr. Lucas: I offer the photostat in evidence as government's exhibit next in order, there being in connection with that—I haven't quite finished yet.

Q. By Mr. Lucas: You handed me two documents, Mr. Witness, one called a collection receipt; is that a companion document which goes with the

(Testimony of William Ladd.)

collection record about which you have just been testifying?

A. That's right, it is a copy of the receipt that we issued to the endorser, Wake Development Company, which we ordinarily pass out, and the receipt itself indicates the corresponding collection number of the photostat.

Q. I see. So that from that number you know that this is a companion document to the photostat that counsel has in his hand?

A. To the photostat, yes.

Q. I will ask you if it isn't also true that the check has a number on it—that is, the check, Government's Exhibit [39] 11, has a number whereby you can determine and tell whether or not this check is tied into that record?

A. That's right. Our usual procedure is to have their one corresponding number for each of our collections.

Q. And do you find the corresponding number on each, the collection receipt, the check and the collection permanent record?

A. Yes, those are all the same.

Q. And what is that number?

A. It is 6001342.

Mr. Rose: I am objecting to this as wholly immaterial.

The Court: It is admitted subject to being connected up.

The Clerk: U. S. No. 14.

(The documents referred to were marked as

(Testimony of William Ladd.)

Government's Exhibit No. 14, and were received in evidence.)

Q. By Mr. Lucas: Have you exhausted everything that you have brought with you in response to the subpoena?

A. Yes, sir, that's right.

Q. I show you, after having first shown to counsel, a check on the check stationery of the Wake Development Company, Continental Building, dated May 7, 1940, Pay to the Order of Cash, \$950.00, signed Wake Development Company, in printing, by J. M. Danziger, and ask you to examine the check and tell me whether or not it was paid.

A. Yes, the check was paid. [40]

Mr. Lucas: I offer that as government's exhibit next in order, if the court please.

Mr. Rose: Object to it on the ground that no proper foundation has been laid, wholly irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 15.

(The document referred to was marked as Government's Exhibit No. 15, and was received in evidence.)

Q. By Mr. Lucas: And as a part of Government's Exhibit 15, I show you a similar check, Wake Development Company, dated July 2, 1940, Pay to the order of Cash, signed Wake Develop-

(Testimony of William Ladd.)

ment Company, by J. M. Danziger, and tell me whether that was cashed and paid.

A. Yes, that check was cashed and paid.

Q. And another check, the same maker, same payer, dated August 10, amount \$650.00; was that cashed and paid?

A. Yes, that was cashed and paid.

Q. Another check, same maker, drawn on the same stationery, dated 12-23-1940, Pay to Cash, in the sum of \$1130.00, and ask you if that was paid.

A. Yes, that check was cashed and paid.

Mr. Lucas: I offer these three additional documents to accompany the other one, and all to be known as Government's Exhibit 15, if the court please.

Mr. Rose: Object to it on the ground that no proper foundation has been laid; it is wholly irrelevant and [41] immaterial to any issue in this case.

The Court: The exhibits are admitted as one exhibit, subject to being connected up.

The Clerk: U. S. 15.

(The documents referred to were marked as Government's Exhibit 15, and were received in evidence.)

Mr. Lucas: You may cross examine, counsel.

Mr. Rose: No questions.

Mr. Lucas: You may step down. What time does your Honor usually take the afternoon recess?

The Court: Now. Is that the custom? How late do you run?

Mr. Lucas: That is controlled by the court here,



(Testimony of William Ladd.)

and each different Judge has his own views on the matter.

Personally, in a long, drawn-out trial like this, I prefer, if we can, to recess at 4:30. I say the custom is guided here locally, your Honor, by the Judge presiding in each department.

May this witness be excused, your Honor?

The Court: Yes.

(Witness excused.)

The Court: Do you suggest the afternoon recess?

Mr. Lucas: Yes.

The Court: What is the customary period?

The Clerk: 10, 12 minutes, your Honor.

(A short recess was taken.) [42]

Mr. Rose: If I may be permitted——

The Court: Yes, Mr. Rose.

Mr. Rose: A few moments ago, your Honor, the question came up informally as to the state of the record in regard to noting of exceptions. I may have misunderstood the rulings of your Honor. I want to indicate that I have assumed in the reception of these exhibits over the objections interposed, subject to their being connected up, that your Honor did not require any exception to be noted until your Honor ultimately receives that evidence on the theory that there has been some foundation laid for the reception of them. As I correct about that?

The Court: I think that would protect your position.

Mr. Rose: In other words, I didn't want to inadvertently place myself in the position of waiving an exception to the ruling, because I have assumed that your Honor, under his great discretion, is accepting a lot of these offers and will ultimately pass on their admissibility as against one or all of the defendants.

The Court: Provided—if and when the question is raised again, that would be for you to do. At that time if my ruling should be adverse to you, you would be entitled to an exception, and of course we will give it to you. I think that will protect your position.

Mr. Lucas: Call Miss Hedge. [43]

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FLORENCE HEDGE,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Florence Hedge.

Mr. Lucas: By the way, you have now been sworn. Do you want to take up something?

The Witness: According to the postal laws and regulations, I am not allowed to testify unless ordered to do so by the court.

The Court: Will you read that?

(The record was read.)

The Court: I will make the order.

Mr. Lucas: Thank you, your Honor.

(Testimony of Florence Hedge.)

Direct Examination

By Mr. Lucas:

Q. I will show you, Miss Hedge, after having previously shown to counsel and supplied counsel with a copy thereof, an application for a postal money order, and ask you if you have ever—withdraw that.

What is your business or occupation?

A. Money order clerk.

Q. You are what? A. Money order clerk.

Q. At what place? [44]

A. At the present time, Metropolitan station. But at that particular time I was in Station N.

Q. You are a Postal Money Order clerk for the United States Government? A. That is right.

Q. And you were at the times mentioned or shown in these exhibits with Station N, and where is that located?

A. In the Mezzanine floor of the Broadway Department Store.

Q. Very well. With that foundation, then, I show you an application for a domestic money order, and tell me if you have ever seen that document before?

A. Yes, I have, and that's my writing on there.

Mr. Rose: I can't hear the witness.

Mr. Lucas: Speak up.

(The answer was read.)

Q. By Mr. Lucas: You accepted that application, did you, at the time—— A. I did.

Q. ——that it is dated? A. I did.

(Testimony of Florence Hedge.)

Q. And issued a money order thereon as shown by the amount on that application?

A. That's right.

Q. The person who procured that application signed for it, did they? [45]

A. I didn't actually see him sign the application, but he presented it to me as if he had.

Q. Yes. That is the requirement, however, that it be signed by somebody who presents it?

A. That's right.

Mr. Rose: Just a moment. I submit it calls for a conclusion and opinion of the witness.

Mr. Lucas: I think it is a matter of common knowledge, and I will withdraw the question.

Q. By Mr. Lucas: On that, you say you issued a Postal Money Order? A. That's right.

Q. And delivered it to the person purchasing it?

A. That's correct.

Q. I show you another application for a money order, and ask if you have seen that before.

A. I have; and that is my writing on it.

Q. You issued a money order on that, also?

A. Yes, that's correct.

Q. To the person applying for it?

A. That's correct.

Q. In the amount shown on the application?

A. Yes.

Q. And the application is correctly dated, is it?

A. That's right.

Q. And that date is indicated by what, a stamp?

(Testimony of Florence Hedge.)

A. Money order stamp which we keep locked when not in use in our safe.

Mr. Rose: Just a moment, counsel. I am absolutely unable to understand what the witness is saying. [47]

Mr. Lucas: You may come over a little closer, counsel. I have no objection.

Mr. Rose: Perhaps it might help matters if I come over on this side. Will your Honor direct the reporter to read the answer?

The Court: I can direct the reporter, but I can't do anything with the witness. I have tried to do things with women before, and I never had any luck. If they don't want to talk up, they won't talk up on my account.

You can read back a couple of answers. They weren't on important matters.

Mr. Rose: It didn't occur to me, but I would like to really know what was said.

The Court: Read back a little ways, Mr. Reporter.

(The record was read.)

Q. By Mr. Lucas: I show you another application, Miss Hedge, and ask you if you have seen that before.

A. Yes, I have.

Q. The document is correctly dated, is it?

A. That is correct.

Q. And you issued a money order in accordance with the amount shown on that application?

A. Yes, I did.



(Testimony of Florence Hedge.)

Q. I show you another one and ask you if you have seen that before. A. I have. [48]

Q. And is the document correctly dated?

A. That's correct.

Q. And did you issue a money order for the amount shown on the application? A. I did.

Q. I show you another one and ask you if you have seen that before. A. Yes, I have.

Q. And is the document correctly dated?

A. That's right.

Q. And you issued a money order to the person making the application? A. Yes, I did.

Mr. Rose: Just a moment. I object to the form of the questions as being leading and suggestive, calling for a conclusion of the witness, and no proper foundation laid. The form of this particular question, your Honor will note, incorporates some factors and elements that are different than the preceding questions.

Mr. Lucas: It was purely an inadvertence, Mr. Rose. I cannot always repeat myself, you know.

Mr. Rose: I recognize that. That is why I am making the objection.

The Court: Well, your testimony is that you issued money orders at the dates of these applications to the people who signed them? [49]

Are their signatures on there?

Mr. Lucas: Yes.

The Court: Is that your testimony?

The Witness: To the persons presenting the applications.

(Testimony of Florence Hedge.)

Q. By Mr. Lucas: I show you now the final one that I have, Miss Hedge, an application, and ask you if you have seen that document before.

A. I have.

Q. Is that your handwriting on the upper part there?

A. That is my handwirting on all of them.

Q. When you said your handwriting on all of them, you meant the figures shown above the words "Application For Domestic Money Order," did you not?

A. This is my initial, which we have to put on each and every application.

Q. Then your initial is on each one of them?

A. Yes; and this is the number of the bill that was presented at the time; the \$100 bills that were presented at the time he sent the orders, a copy of each one of the numbers of the hundred dollar bills.

Q. The writing on each of the applications, below the words "Application For Domestic Money Order" is not yours, is it?

A. No, it is not mine.

Q. That was on the application at the time it was presented to you at the window, is that correct? [50]

A. That's correct.

Q. I show you the one numbered 983069, and on that you have indicated something in your handwriting. That is what?

A. The number of each one hundred dollar bill. The number of the bill.

(Testimony of Florence Hedge.)

Q. In other words, this application is for one \$100?

A. There are three \$100 bills indicated on this particular application. I didn't put any more on because I didn't have any more room, but I think you will find two on the other one, two or three on one of the other ones.

Q. I see. That is what you refer to?

A. Yes. We are not required to do that, but I do it in case of a counterfeit.

Mr. Rose: What was the last?

(The record was read.)

Q. By Mr. Lucas: All of these documents, then, applications, were taken on the same day?

A. That's correct. They have consecutive numbers.

Q. And they were all issued in consecutive order at the same time?      A. Yes.

Mr. Lucas: I offer these in evidence as one exhibit, your Honor, being six original applications, and ask that an order be made at this time that we may at some other time, and in the course of the trial, substitute photostatic copies [51] thereof in place of these originals.

Mr. Rose: Objection is had to these offers and each of them upon the ground that the same is irrelevant and immaterial to any of the issues in this case; that no proper foundation has been laid. And by "foundation" I am not addressing the objection to the foundation that these are bona fide applications for money orders.

(Testimony of Florence Hedge.)

Mr. Lucas: What is the basis of your foundation or objection, Mr. Rose?

Mr. Rose: That they do not tend to prove and cannot competently prove any charge contained in the indictment over which the government would have any jurisdiction. May I, in amplification of these objections, indicate to your Honor that some reference, in part, is made to these exhibits in Count No. 17 of the indictment, which charge, reduced to its lowest terms, purports to charge a violation of Code Section 18—rather, 18 of Section 88.

According to my recollection of the nature and character of that offense, that offense is one that you define as a conspiracy to defraud the government of the United States. It doesn't pertain or relate to alleged conspiracies in regard to personal transactions. That section relegates itself—I may be in error, but I believe I am correct—to conspiracies to defraud the government. And there is no foundation laid, and these offers are wholly immaterial and irrelevant to any matters over which the government would [52] have control. It isn't contended that the applications, on the part of anyone—that the Government of the United States was intended to be defrauded, and therefore they are immaterial.

Mr. Lucas: I think an explanation to the court is probably in order at this time.

The applications, your Honor, have the printed legend on each of them "Sent by" and opposite that is the name "A. Levy." The government

(Testimony of Florence Hedge.)

charges that that A. Levy is Mr. Danziger, and we will offer proof that in each of these six applications they were applied for by the defendant Danziger in sending money to his co-defendant Carter, who appears in this document as Carlton. And if counsel doesn't feel like stipulating that his client signed them, we have a government expert here to supply any deficiency along that line.

I have six photostatic copies, that is, a photostatic copy of each of these, and if no one has any objection—they are very good work—I would substitute the photostats for the originals, and that will put us in a position to return these original documents to the Post Office department.

The Court: The originals better stay for the period of the trial.

Mr. Lucas: Very well.

The Court: What about Mr. Rose's reference to Count 17, which he says is about conspiracy to defraud the government?

Mr. Lucas: I think Mr. Rose is wrong. These documents [53] are offered in support of the conspiracy that is mentioned in the very first three or four pages of the indictment, the charge that they had conceived a conspiracy and did things in furtherance thereof; and these documents are offered in furtherance of a conspiracy that is the foundation of the 16 counts of the indictment.

The Court: What about his reference to conspiracy to defraud the government? Is there any such charge in the case?



(Testimony of Florence Hedge.)

Mr. Lucas: I don't know what Mr. Rose has in mind.

Mr. Rose: If your Honor will look at the very last page of the indictment, just the last paragraph above the signature of William Palmer, United States Attorney. Observe that it is there charged that the so-called acts, antecedents of this concluding paragraph, these acts were "Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. Title 18 U. S. C., Section 88."

Now, Section 88 of that statute pertains to a conspiracy to defraud the Government of the United States. That is what they claim this particular count was a violation of. They have got a lot of redundant matter there, but we know in charging an offense you set out certain things, and here they charge that this was contrary to Title 18, United States Code, Section 88.

The Court: Mr. Lucas has just said he is offering these [54] in support of the conspiracy charged in Count 1.

Mr. Lucas: And in each of the remaining counts which are set forth and adopted by reference in each of the succeeding counts.

The Court: The conspiracy in Count 1 is conspiracy to defraud private individuals, I take it. I haven't read it closely.

Mr. Lucas: I say it is offered in support of the charge——

The Court: I want to get one thing through my

(Testimony of Florence Hedge.)

head. Is there a charge in here some place under the statute about defrauding the government?

Mr. Lucas: I don't think so, your Honor. I think it would all be eliminated if counsel would read Section 88.

Mr. Rose: I might pass that on to opposing counsel. I have read it.

The Court: All right. Maybe I will have to read it. They are admitted for the present as one exhibit.

The Clerk: U. S. 16.

(The documents referred to were marked as Government's Exhibit No. 16, and were received in evidence.)

Mr. Lucas: That is all. You may cross examine.

At this time I offer in evidence, under the section—I think it is 687 or 691—authorizing the introduction in evidence of certified copies of government documents, I now offer in evidence under the certificate of the general [55] accounting office, ten money orders. And I say, just in passing, your Honor, that six of these money orders, Post Office money orders, are connected with and tied in with the six applications here that have just been introduced. The remaining four money orders are a part of the certification and I do not want them separated, but they have no reference to these money orders here. Just the first six, which were testified to by Miss Hedge.

The Court: Weren't you prepared to dismiss this witness a minute ago?

(Testimony of Florence Hedge.)

Mr. Lucas: If counsel has no objection.

The Court: You turned her over for cross examination, then you recalled that you hadn't put in your exhibits.

Mr. Lucas: I don't need the witness to put this in.

### Cross Examination

By Mr. Rose:

Q. This form of so-called application for domestic money order, prior to receiving your attention, are available for any persons who want to pick them off the counter, isn't that correct, like blank checks in a bank?      A. In blank style, yes.

Q. Some people have them in the office; you don't control their distribution, do you?

A. No.

Q. They are available to any person who wants to come in and get them? [56]

A. That is true.

Q. When one of these is presented to you, and was in this particular instance, you are not concerned with the person who was purchasing the money order, were you?      A. No.

Q. You didn't make any inquiry about the identity of the person?

A. We do not when they present a money order or application for a money order.

Q. You want to know to whom the money is to be sent?      A. That is all.

Q. And you make no inquiry about that?

(Testimony of Florence Hedge.)

A. No.

Q. And if the money is handed to you, plus the postal charges, you simply make out the money order to the person designated on this application, without inquiry of any kind or description?

A. That is correct.

Q. Is that correct?

A. That is correct.

Q. And so far as your knowledge at this time goes, you have no personal memory of the person or persons who presented either the money or these applications which constitute part of Exhibit No. 16?

A. No, I do not.

Mr. Rose: That is all. [57]

Mr. Lucas: One question before your Honor excuses this witness, in connection with this document from the general accounting office, which I offered.

### Redirect Examination

My Mr. Lucas: I show you, Miss Hedge, a photostatic copy of a United States Money Order, and ask you to examine the first six of these——

A. Seven.

Q. Seven?

A. Yes.

Q. ——and tell me if you can find on this photostat any identification mark of any kind, or any mark that you placed on the original?

A. I don't understand what you mean. Oh, yes, my initial.

Q. That is what I hoped you would find.

A. In my own handwriting.

Q. You find that on——

(Testimony of Florence Hedge.)

A. On each and every one of them.

Q. You have shown me the first one. Where is your initial there?

A. There (indicating).

Q. You are showing me what?

A. "H."

Q. Right beneath the typed name "Mary D. Briggs?"

A. It is a stamp. [58]

Q. Is it on the second one?

A. It is on the second one. It is on the third one. It is on the fourth one. It is on the fifth one. It is on the sixth.

Q. It is on the sixth?

A. Yes.

Q. And the first six of that exhibit are the ones you signed your initial on?

A. That is correct.

Q. Can you from examination of those photostatic documents tell me whether or not those are the photostats of the money orders that correspond with the applications that you have just heretofore identified and which are in evidence as Government's Exhibit 16?

A. These are not in numerical order. Do you mind if I reverse them, or just leave them as they are?

Q. Just look at them however you want. I don't know that the clerk has any preference as to how he clipped them together.

A. The numbers correspond.

Q. And they are photostats of the money orders that you issued on the applications, Government's Exhibit 16?

A. That is correct.

Mr. Lucas: That is all.



(Testimony of Florence Hedge.)

The Court: You had better put those other documents in so Mr. Rose can cross examine as to them if he wishes while she is here. [59]

Mr. Rose: Your Honor, I have no inquiry of this witness with respect to testimony given about this document.

Mr. Lucas: I now offer the General Accounting certification containing ten photostats in evidence as government's exhibit next in order.

Mr. Rose: Your Honor, while counsel recognizes the provisos respecting the receiving of government records in the form proffered, without objection to the form in which these documents appear, I am objecting on the following grounds, nevertheless, waiving that part of the objection, and these objections are made severally and jointly in behalf of each of the defendants now on trial: One, that no proper foundation had been laid; secondly, they are irrelevant and immaterial, they do not tend to prove any of the issues in the indictment over which the government would have jurisdiction; that they are not competent for the purposes for which they are offered, and there are no foundational facts before the court in connection with these transactions.

I think I have about covered the field.

The Court: They are admitted.

The Clerk: U. S. 17.

(The documents referred to were marked as Government's Exhibit 17, and were received in evidence.)

(Testimony of Florence Hedge.)

Mr. Rose: I take it, your Honor, their being received is subject to the rule your Honor has been using? [60]

The Court: Yes, they are admitted subject to their being connected up.

Mr. Lucas: Mr. Wilkes.

The Court: Do you need the postal clerk further?

Mr. Lucas: No. May she be excused, if the court please?

The Court: Yes.

Mr. Lucas: You may be excused, Miss Hedge.

(Witness excused.)

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### DOUGLAS WILKES,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: Douglas Wilkes.

#### Direct Examination

By Mr. Lucas:

Q. Mr. Wilkes, what is your address?

A. Business address, Chester-Williams Building, 215 West Fifth Street.

Q. What is your business or occupation?

A. Chief clerk of the Western Union Telegraph Company.

(Testimony of Douglas Wilkes.)

Q. How long have you been with the Western Union?      A. Some 14 years.

Q. Are you under subpoena to appear here as a witness in this case?      A. Yes, sir. [61]

Q. And have you, in response to that subpoena, brought certain documents with you?

A. Yes, sir.

Q. Did you bring with you original application for Western Union money order in the sum of \$621.54, dated July 2, 1940?

A. We have photostatic copies of it.

Q. Yes. When was that photostat made, if you know?

A. I think these photostats were made sometime ago; I believe it was back in September of 19—well; it was in 1941.

Q. They were made at the request of the Securities and Exchange Commission, were they?

A. Yes, sir.

Q. Photostats have been in your possession ever since?      A. Yes, sir.

Q. And they are a true and correct copy of the original?      A. That's right.

Q. You recognize them as a true and correct copy of the original?      A. I do, yes.

Q. And where is the original, if you know?

A. The originals have been destroyed.

Q. You just kept the photostats?

A. Yes, sir. [62]

Q. You said you had the original application for \$631.54, dated July 2, 1940, is that right?

(Testimony of Douglas Wilkes.)

A. That is true.

Q. Have you the Western Union money order for \$621.54, dated the same date?

A. Yes, photostatic copy.

Q. And that was issued on the application?

A. That's right.

Q. Will you just give me those two documents? They are one sheet here, are they? A. Yes.

Q. In other words, the top is the application?

A. That is true.

Q. And the next document below that is the money order itself?

A. Draft issued in payment of the application, yes.

Q. And the third photostat on there is the reverse side of the money order showing an endorsement? A. That's true.

Mr. Lucas: We offer this in evidence, and in support of the offer we will state to the court that it is the contention of the government that the signature "A. Levy" on the application is the signature of the defendant Danziger.

If that is not admitted by counsel, we stand ready to prove that by a government handwriting expert. That [63] the endorsement "George Carlton" on the back of the money order is the signature of the defendant Carter. That is its relevancy, your Honor, and we offer it as the government's exhibit next in order.

Mr. Rose: We resist the offer upon the following grounds: One, that it affirmatively appears that the

(Testimony of Douglas Wilkes.)

same is not an original document; that no proper foundation has been laid; the same is wholly irrelevant and immaterial to any issue in this case, and the same is not competently admissible in support of any charge over which the government of the United States would have jurisdiction.

The Court: It is admitted subject to being connected up.

The Clerk: U. S. 18.

(The document referred to was marked as Government's Exhibit No. 18, and was received in evidence.)

Q. By Mr. Lucas: Mr. Wilkes, did you produce an original application for Western Union money order dated December 7, 1938, and the money order that was issued thereon, Money Order No. F-471188, dated December 7, 1938?

A. December 7? Yes, sir.

Q. Have you that document? A. Yes, sir.

Q. And that is produced in response to the subpoena and is a part of the regularly kept records of the Western Union? [64]

Q. And that, also, is a photostat?

A. Photostatic copy, sir.

Q. And what has been said with respect to the other exhibit, is it true of that, the original is destroyed? A. Yes, sir.

Mr. Rose: Objected to as leading and suggestive.

Mr. Lucas: I will withdraw the question.

Q. By Mr. Lucas: What happened to the original, Mr. Wilkes?



(Testimony of Douglas Wilkes.)

A. I beg your pardon?

Q. What happened to the original of that document?

A. The originals have been destroyed.

Q. And that photostat was made by your company, or under your direction?

A. Indirectly under my supervision, yes, sir.

Q. And you recognize it as a true and correct copy of the original?      A. Yes.

Mr. Rose: I object to it as leading and suggestive, calling for a conclusion of the witness.

The Court: You go ahead and tell how it was made, Mr. Wilkes, and what you had to do with it.

The Witness: Under existing practices we have to destroy records of all money orders after a certain period of time has elapsed. In this particular case we had previous notice that the records may be required later on, [65] and of course photostatic copies are really made in our office and maintained as a matter of record.

Q. And that is——

A. I personally saw the original copies, however, before they were destroyed.

Q. And you recognize that as a true copy of the original?      A. Yes, sir.

Q. First you handed me two photostats; one a Western Union money order, I take it is this.

A. That is true.

Q. The next document is the money order itself, and the endorsements on the back thereof?

A. That is the draft issued against it, yes.

(Testimony of Douglas Wilkes.)

Q. Against the application?

A. That is true.

Mr. Lucas: I show these to counsel.

I offer these two documents as one exhibit, if the court please; and in explanation of the offer we would say that it is the contention of the government that in this instance the defendant Danziger was using the alias "T. Mack" in making the application; that the signature on the application "T. Mack" is in the handwriting of the defendant Danziger, and that the endorsement on the back of the money order or draft itself, "George Carlton" is the alias of defendant Carter and is in his handwriting, [66] and we offer these two documents as one exhibit.

Mr. Rose: To which we object on the ground that no proper foundation has been laid; the same is purely irrelevant and immaterial; there are no foundational facts at present which authorize the admissibility of these documents in order to tend to prove any offense over which the Government of the United States would have cognizance; that the same is irrelevant to the issues in the indictment.

The Court: Admitted subject to being connected up.

The Clerk: U. S. 19.

(The documents referred to were marked as Government's Exhibit No. 19, and were received in evidence.)

Mr. Rose: Perhaps, counsel, we may expedite

(Testimony of Douglas Wilkes.)

some of these proceedings, if you have a series of documents of similar character——

Mr. Lucas: I only have three more, counsel.

Mr. Rose: Perhaps we can stipulate that the witness will testify that the documents are of similar nature and character except as reflected by amounts and dates, as those already received, and then I can interpose my objection, and in that way we can save time.

Mr. Lucas: I will accept that stipulation.

Q. By Mr. Lucas: The next one I want is original application and original money order 710097 for \$177.19.

A. Yes, we have that.

Q. And do you have the application for Western Union [67] money order for \$909.19?

A. Yes.

Q. The application and the money order both?

A. Yes, photostats of them.

Q. And you have the original Western Union money order for—no, that is all of the Western Union money orders. Do you have the Postal Telegraph money order for \$642.60?

A. Photostatic copies, yes.

Q. And the Postal money order was issued on that application?      A. That is true, correct.

Q. And in respect to the Postal, now, the Postal Telegraph Company was taken over by the Western Union, is that right?

A. Well, we purchased and absorbed the Postal in October, 1943, yes.

(Testimony of Douglas Wilkes.)

Q. You came into the possession of those Postal records in what manner?

Mr. Rose: We will assume by taking over the business of the Postal Telegraph Company.

Mr. Lucas: All right.

Q. By Mr. Lucas: After it was taken over by the Western Union, did the Postal document which you have there come into your possession as chief clerk of the Western Union? [68]

A. That is true. As a matter of fact, all records of money orders of the company, after it was absorbed, really came under the control of the Western Union comptroller in New York.

Q. You came by the document in the due and regular course of business, did you?

A. Yes, sir. It was in our custody, of course, after we succeeded the other company.

Q. That is one complete document, is it?

A. Yes.

Q. And the next one is? A. Yes.

Mr. Lucas: I offer in evidence now, then, Western Union money order No. 710097, the application signed A. Levy, and the Western Union money order paid to George Carlton, and endorsement, a photostatic copy thereof, as the government's exhibit next in order.

Do you want to make your objection now or later, counsel?

Mr. Rose: Are you going to offer them all as one exhibit?

Mr. Lucas: No. They have been separated here-

(Testimony of Douglas Wilkes.)

tofore, I take it. I can make all my offers and you can make one objection to the entire matter.

Mr. Rose: Go ahead.

Mr. Lucas: I next offer Western Union money order [69] application and Western Union money order No. F976148, and the reverse side as shown by the photostat of the endorsement of Western Union money order.

I now offer photostatic copies of Postal money order No. H431534, the application being signed A. Levy, and the money order payable to George Carlton, as government's exhibit next in order, and make the same representations as to the contention of the government, that the signature "A. Levy" is in truth and in fact the signature of defendant Danziger, and the endorsement "Carlton" is the endorsement of the defendant Carter.

Mr. Rose: Your Honor, the objections interjected in behalf of the defendant Danziger and the Wake Development Company and Trinidad Corporation to these respective documents, namely, 20, 21 and 22, are made upon the following grounds: That no proper foundation has been laid to its reception in evidence. And I am not addressing the objection to the lack of foundation on the contention that these documents are not records of the Western Union or Postal Telegraph Company; I mean any foundation in respect to its competency and admissibility for the purpose of establishing the commission of any public offense, more particularly the offenses charged in the indictment. They



(Testimony of Douglas Wilkes.)

are wholly irrelevant and immaterial and they are not competent for that purpose. Nor is any foundation laid in respect to the incipient stages of the procurement of the documents or the manner or means or communication respecting how they [70] were to be procured and by whom.

The Court: They are admitted subject to being connected up.

The Clerk: U. S. 20, 21 and 22.

(The documents referred to were marked as Government's Exhibits Nos. 20, 21 and 22 and were received in evidence.)

Mr. Lucas: You may cross examine.

### Cross Examination

By Mr. Rose:

Q. Mr. Wilkes, you are assigned to part of the staff of the Western Union Company for the purpose of coming into court and producing documents under subpoena, and so forth, is that correct?

A. Yes, sir.

Q. With respect to the application for a Postal money order, no identity of the sender of the money is required by the company, isn't that correct?

A. Yes, that is correct, we don't require it.

Q. On the other hand, the payee, judging from the stamp on this money order is not transferable, must identify himself as the person whose name appears thereon?

A. Oh, yes, reasonable identification.

Q. In other words, so far as these respective

(Testimony of Douglas Wilkes.)

applications reflected in the practice by both the Western Union and the Postal—you follow the same, do you?

A. Substantially it is the same, yes. [71]

Q. It doesn't matter to the company who presents an application for a money order, but the company does require identification, on the other hand, of the recipient of the proceeds of the money order?

A. Yes.

Q. Is that why the stamp appears on it "Receipt not negotiable?"

A. That stamp "Receipt not negotiable" is placed on a draft after it has been cashed.

Q. That was not on there originally; that is something after it was returned?

A. After it is cashed they just put it on there.

Mr. Rose: That will be all.

Mr. Lucas: Just a couple of questions.

#### Redirect Examination

By Mr. Lucas:

Q. I direct your attention to Government's Exhibit 20, and ask you if it isn't shown on there that positive identification is waived?

A. Well, identification was waived on this money order.

Q. Now, I show you Government's Exhibit 21, and ask you if it doesn't show thereon that information for test question for identifying payee was indicated as waived or none to be asked?

A. That is true, identification was waived. There was no test question. [72]

(Testimony of Douglas Wilkes.)

Q. Are you familiar with the Postal matters in that regard? I am not, so I will have to leave it up to you.

A. That application is more or less like our own form. An identification on this money order was waived also.

Q. That Postal is Government's Exhibit 22. Now, I show you Government's Exhibit 18, and ask you if positive identification was required in that.

A. No; identification was waived.

Q. How about the letters there "TQR?"

A. That is a designation, the test question was refused. An effort was made to obtain an identification question, a personal question, date of birth or something of the sort, but it was declined by the sender.

Q. Declined by the sender?           A. Yes.

Q. I show you Government's Exhibit 19, and ask you if there is any legend or marks on there whereby you can tell whether test questions or identification was waived?

A. Well, identification was definitely waived on the money order. There is no indication of a test question at all.

Mr. Lucas: That is all.

The Court: A test question, just tell me how it works. You said the sender declined the test question?

The Witness: Yes, sir. [73]

The Court: How would that be? Say it again.

(Testimony of Douglas Wilkes.)

The Witness: Your Honor, when an identification is waived on a money order we exercise reasonable care, get documentary evidence; but we always try to as far as we can solicit a personal question that we know only the payee, legitimate payee can answer.

The Court: You get that from the sender?

The Witness: From the sender, yes, sir; such as date of birth, April 21. And it is a pretty good safeguard. Naturally it involves impositions.

The Court: Anything further?

#### Recross Examination

By Mr. Rose:

Q. That test question is for the protection of the company so you won't pay the money to the wrong party?

A. It is a very good thing where we can get them, to avoid fraudulent payment.

Mr. Rose: That is all.

The Court: I believe that is all.

Mr. Lucas: It is past 4:30, your Honor; I would appreciate it if we can recess until tomorrow morning.

The Court: Are these hours satisfactory to you, Mr. Rose?

Mr. Rose: Your Honor, tomorrow morning I have two petitions for letters, one is a will and one is probate; the court usually convenes over at the probate side at 9:30, [74] and the court permits counsel who are engaged to take their matters up

out of order. However, it is likely that there may be some that may jump in ahead of me, and I was wondering if your Honor would permit me a few extra minutes so I can take the matter up.

The Court: All right. We will adjourn until 10:00 o'clock.

(Whereupon, at 4:35 o'clock p. m., January 16, 1945, an adjournment was taken until 10:00 o'clock a. m., Wednesday, January 17, 1945.)



